

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
CENTRAL PUGET SOUND REGION
STATE OF WASHINGTON

TALIS ABOLINS AND MARLA STEINHOFF,

Petitioners,

v.

CITY OF SEATTLE,

Respondent.

Case No. 14-3-0009

FINAL DECISION AND ORDER

SYNOPSIS

Petitioners challenge the adoption of an ordinance rezoning land within the City of Seattle's North Rainier Hub Urban Village, amending the Official land Use Map, implementing affordable housing and open space bonus provisions, and adopting development standards. The Board concludes Petitioners failed to demonstrate the action of the City violated RCW 36.70A.020, RCW 36.70A.040, RCW 36.70A.070, RCW 36.70A.120, or RCW 36.70A.130(1)(d). The appeal is denied and the case is dismissed.

I. PROCEDURAL BACKGROUND

On September 2, 2014, Talis Abolins and Marla Steinhoff, husband and wife, filed a Petition for Review (PFR) challenging the City of Seattle's July 3, 2014, enactment of Ordinance No. 124513 (the Ordinance) amending the Land Use Map, rezoning land in the North Rainier Hub Urban Village, expanding the boundaries of the Mount Baker Station Area Overlay District, and implementing affordable housing and open space bonus provisions, development standards, and parking requirements. The Petition was assigned Case No. 14-3-0009.

Eleanore Baxendale, Assistant City Attorney, appeared for the City September 17, 2014. Petitioners are represented by Mr. Abolins, petitioner and attorney acting *pro se*. The

1 City filed its Index of the Record October 2, 2014. The same day, Petitioners filed an
2 amended PFR. A Prehearing Conference was held telephonically on October 6, 2014, at
3 which the parties jointly requested a 30-day settlement extension. The Board granted the
4 settlement extension in its Prehearing Order on October 14, 2014.

5 Petitioners filed a Second Amended PFR on October 13, 2014. On October 21, 2014,
6 the City filed motions to extend the deadline for its Response Brief and to strike Issue 11.
7 Petitioners responded to the City's motion on October 30, 2014, opposing only the motion to
8 strike. The Board granted the motion to extend the deadline for the City's Response Brief
9 and denied the motion to strike.

10 On November 6, 2014, the parties jointly moved to amend the case schedule to
11 extend the due date for Motions to Supplement the Record. The Board Granted the Motion
12 on November 7, extending deadlines for Response and Reply to Motions accordingly.

13 The City also filed Motions to Dismiss various issues set forth in the PFR on
14 November 6, 2014. Petitioners responded in opposition on November 20, 2014 and the City
15 replied November 26, 2014. The City's motions as to subject matter jurisdiction, participation
16 standing, and GMA consistency requirements were denied.¹ Its motions to dismiss NR-P34
17 as inapplicable (dismissing Issue 2) and NR-P35, LU 212, LU215, and LU 216 as
18 inapplicable (dismissing Issue 3 except as to LU 48 and LU 73) were granted.²

19 On November 13, 2014, Petitioners motion to extend the deadline for Motions to
20 Supplement was granted³ and Petitioners' motion to Supplement was received on
21 November 17, 2014. The City responded November 19, 2014. The motion was granted in
22 part and denied in part.⁴

23 The briefs and exhibits of the parties were then timely filed and are referenced in this
24 order as follows:

- 25 • Petitioners' Brief on the Merits, December 30, 2014 (Petitioners' Prehearing Brief);

30
31 ¹ Order On Motions (December 10, 2014) at 3-5, 8-11..

32 ² *Id.* at 6-8.

³ *Id.* at 1.

⁴ *Id.* at 11-18.

- City of Seattle's Prehearing Brief, January 14, 2015 (City Brief);
- Petitioners' Reply Brief, January 26, 2015 (Petitioners' Reply).

Due to scheduling conflicts involving the parties and the Board, the Hearing on the Merits (HOM) was rescheduled from January 30, 2014, to February 11, 2014. The HOM afforded the parties a chance to highlight the arguments presented in their briefs and to respond to questions from the Board.

II. PRESUMPTION OF VALIDITY, BURDEN OF PROOF, AND STANDARD OF REVIEW

Pursuant to RCW 36.70A.320(1), comprehensive plans and development regulations, and amendments to them, are presumed valid upon adoption.⁵ This presumption creates a high threshold for challengers as the burden is on the petitioners to demonstrate that any action taken by the City is not in compliance with the GMA.⁶

The Board is charged with adjudicating GMA compliance and, when necessary, invalidating noncompliant plans and development regulations.⁷ The scope of the Board's review is limited to determining whether a City has achieved compliance with the GMA only with respect to those issues presented in a timely petition for review.⁸ The GMA directs that the Board, after full consideration of the petition, shall determine whether there is compliance with the requirements of the GMA.⁹ The Board shall find compliance unless it determines that the City's action is clearly erroneous in view of the entire record before the Board and in light of the goals and requirements of the GMA.¹⁰ In order to find the City's

⁵ RCW 36.70A.320(1) provides: [Except for the shoreline element of a comprehensive plan and applicable development regulations] "comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption."

⁶ RCW 36.70A.320(2) provides: [Except when city or county is subject to a Determination of Invalidity] "the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter."

⁷ RCW 36.70A.280, RCW 36.70A.302.

⁸ RCW 36.70A.290(1).

⁹ RCW 36.70A.320(3).

¹⁰ *Id.*

1 action clearly erroneous, the Board must be “left with the firm and definite conviction that a
2 mistake has been committed.”¹¹

3 In reviewing the planning decisions of cities and counties, the Board is instructed to
4 recognize “the broad range of discretion that may be exercised by counties and cities” and
5 to “grant deference to counties and cities in how they plan for growth.”¹² However, the city’s
6 actions are not boundless; their actions must be consistent with the goals and requirements
7 of the GMA.¹³

8
9 Thus, the burden is on Petitioners to overcome the presumption of validity and
10 demonstrate that the challenged action taken by the City is clearly erroneous in light of the
11 goals and requirements of the GMA.

12 13 **III. BOARD JURISDICTION**

14 The Board finds the Petition for Review was timely filed, pursuant to RCW 36.70A.290
15 (2). The Board finds the Petitioner has standing to appear before the Board, pursuant to
16 RCW 36.70A.280(2)(a) and (b) and RCW 36.70A.210(6).¹⁴ The Board finds it has jurisdiction
17 over the remaining subject matter of the petition¹⁵ pursuant to RCW 36.70A.280(1).
18
19

20
21 ¹¹ *City of Arlington v. CPSGMHB*, 162 Wn.2d 768, 778, 193 P.3d 1077 (2008)(Citing to *Dept. of Ecology v.*
22 *PUD District No. 1 of Jefferson County*, 121 Wn.2d 179, 201, 849 P.2d 646 1993); See also, *Swinomish Tribe*
23 *v. WWGMHB*, 161 Wn.2d 415, 423-24, 166 P.3d 1198 (2007); *Lewis County v. WWGMHB*, 157 Wn.2d 488,
24 497-98, 139 P.3d 1096 (2006).

25 ¹² RCW 36.70A.3201 provides, in relevant part: “In recognition of the broad range of discretion that may be
26 exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the
27 boards to grant deference to counties and cities in how they plan for growth, consistent with the requirements
28 and goals of this chapter. Local comprehensive plans and development regulations require counties and cities
29 to balance priorities and options for action in full consideration of local circumstances. The legislature finds that
30 while this chapter requires local planning to take place within a framework of state goals and requirements, the
31 ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and
32 implementing a county's or city's future rests with that community.”

¹³ *King County v. CPSGMHB*, 142 Wn.2d 543, 561, 14 P.2d 133 (2000) (Local discretion is bounded by the
goals and requirements of the GMA). See also, *Swinomish*, 161 Wn.2d at 423-24. In *Swinomish*, as to the
degree of deference to be granted under the clearly erroneous standard, the Supreme Court has stated: The
amount [of deference] is neither unlimited nor does it approximate a rubber stamp. It requires the Board to give
the [jurisdiction's] actions a “critical review” and is a “more intense standard of review” than the arbitrary and
capricious standard. *Id.* at 435, n.8.

¹⁴ Except for Legal Issue 3, view protection, as set forth below.

¹⁵ See n. 2 and discussion *supra* regarding partial dismissal in Issues 2 and 3.

IV. PRELIMINARY MATTERS

A typographical error, noted at the prehearing conference but not corrected in the Prehearing Order is noted in the prefatory note to the issue statements. RCW 36.70A.040(5) refers to counties other than King. The corrected reference is RCW 36.70A.040(3).¹⁶

As noted *supra*, Petitioners' Issue 2 and Issue 3 as it pertained to inapplicable code policies (NR-P35, LU 212, LU215, and LU 216) were dismissed.¹⁷ In the Petitioners' prehearing brief, Petitioners' reorganize and consolidate their arguments in a generally helpful way. However, Issue 6¹⁸ was omitted and not briefed. Pursuant to WAC 242-03-590(1),¹⁹ Issue 6 is deemed abandoned and will not be considered further.

With its Response Brief, the City moved to supplement the record with rebuttal documents. At the HOM, the Board ruled orally to admit these documents as Exhibits 75-80 pursuant to WAC 2242-03-565(1).²⁰

Prior to the HOM, Petitioner Abolins shared his PowerPoint presentation with the City and the Board. Hearing no objection from the City, paper copies of the PowerPoint presentation were allowed as an illustrative exhibit pursuant to WAC 242-03-610.

V. ISSUES AND DISCUSSION

Petitioners advance eleven legal issues in the Petition for Review.²¹ In Petitioners' briefs, those issues are discussed under four general allegations of non-compliance pertaining to (1) open space opportunities; (2) preservation of views; (3) inconsistency with

¹⁶ Prehearing Order And Order Granting Settlement Extension (October 14, 2015) at 2; Second Amended Petition For Review (October 10, 2014) at 1.

¹⁷ Order On Motions (December 10, 2014) at 6-8.

¹⁸ See Appendix A; Prehearing Order And Order Granting Settlement Extension (October 14, 2015) at 3; Second Amended Petition For Review (October 10, 2014) at 2.

¹⁹ WAC 242-03-590 reads, in pertinent part:

(1) A petitioner, or a moving party when a motion has been filed, shall submit a brief addressing each legal issue it expects the board to determine. Failure by such a party to brief an issue shall constitute abandonment of the unbriefed issue.

²⁰ WAC 242-03-565(1) reads, in pertinent part, "The Board may allow a later motion for supplementation on rebuttal. . . ."

²¹ See Appendix A to this Order.

1 the City's Capital Improvement Plan (CIP) regarding provision of open space; and (4) failure
2 to coordinate with other entities, including Franklin High School officials.

3 To facilitate its decision, the Board organizes its discussion as follows:

4 **A. Background**

5 **B. Open Space needs of a Hub Urban Village**

6 **C. View preservation**

7 **D. Concurrency of Capital Facilities Planning**

8 **E. Coordination with other Entities**

9
10
11 Petitioners ask whether the City violated RCW 36.70A.020(1), (9), (10), (12) and (13)
12 (Planning Goals to guide development and adoption of development regulations)²²; RCW
13 36.70A.040(3) (city development regulations must implement comprehensive plans); RCW
14 36.70A.070 (requiring land use map consistency with Comprehensive Plan); RCW
15 36.70A.120 (each city shall perform activities and make capital budget decisions in
16 conformity with its comprehensive plan);²³ RCW 36.70A.130(1)(d) (development regulation
17 amendments shall be consistent with and implement the comprehensive plan); and RCW
18 36.70A.320(3) (city actions must not be clearly erroneous in light of the GMA goals and

19
20 ²² RCW 36. 70A.020 reads, in relevant part:

21 The following goals are adopted to guide the development and adoption of comprehensive plans
22 and development regulations of those counties and cities that are required or choose to plan
23 under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used
24 exclusively for the purpose of guiding the development of comprehensive plans and development
25 regulations:

26 (1) Urban growth. Encourage development in urban areas where adequate public facilities and
27 services exist or can be provided in an efficient manner. . . .

28 (9) Open space and recreation. Retain open space, enhance recreational opportunities,
29 conserve fish and wildlife habitat, increase access to natural resource lands and water, and
30 develop parks and recreation facilities. . . .

31 (10) Environment. Protect the environment and enhance the state's high quality of life, including
32 air and water quality, and the availability of water. . . .

(12) Public facilities and services. Ensure that those public facilities and services necessary to
support development shall be adequate to serve the development at the time the development is
available for occupancy and use without decreasing current service levels below locally
established minimum standards. . . .

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and
structures, that have historical or archaeological significance.

²³ RCW 36. 70A.120 reads: "Each county and city that is required or chooses to plan under RCW 36.70A.040
shall perform its activities and make capital budget decisions in conformity with its comprehensive plan."

requirements), as detailed more specifically [in the eleven issue statements in appendix A]?²⁴

A. Background

The City of Seattle has two decades of pioneering experience in planning for urban density under GMA using the “urban village strategy,” an approach that directs most new household and employment growth into places the Plan designates as either urban centers or urban villages.²⁵ Both urban centers and urban villages are expected to take both job and housing growth, but the growth planned for urban villages is to be at lower densities than the urban centers.²⁶ Within the category of “urban village,” the City distinguishes between Hub Urban Villages and Residential Urban Villages, with the latter centered around smaller business districts that are expected to experience primarily residential growth.²⁷

The urban village strategy is a recent innovation nationally. Further, the GMA establishes over-arching goals but leaves much to local discretion. Thus, there have been numerous Board cases involving the inter-relationship of neighborhood plans, the comprehensive plan (particularly the land use, neighborhood planning, and capital facilities elements) and capital facilities financing plans.²⁸

In the *West Seattle Defense Fund v. City of Seattle (WSDF I)*, the Board found that the City had violated RCW 36.70A.070 because:

... the City has not conducted sufficient analysis regarding the effects on existing capital facilities of distributing a large portion of anticipated growth into Seattle's urban centers and villages. Unlike a generalized land-use policy, Seattle's Plan contains a substantial localized focus on a relatively small portion of the city. The Plan distributes 45 percent of projected population and 65 percent of projected employment growth into urban centers, which comprise only six percent of the city's total acreage. This has

²⁴ Overarching issue statement containing Petitioners' references to statutory violations; See Second Amended PFR (October 10, 2014) at 1; Order on Motions to Strike and Revise Case Schedule (October 30, 2014) at 2-3.

²⁵ Ex. 53: Seattle Comprehensive Plan, Readers' Guide, Introduction at 3.

²⁶ *Id.*

²⁷ *Id.* at 4.

²⁸ See, e.g. *WSDF I*, GMHB 94-3-0016, FDO (April 4, 1995); *WSDF II*, GMHB 95-3-0040, FDO (September 11, 1995); *WSDF III*, GMHB 95-3-0073, FDO (April 2, 1996); *WSDF IV*, GMHB 96-3-0033, FDO (March 24, 1997).

1 significant implications on the amount of analysis required for the capital
2 facilities element of the Plan. The Plan does not contain the required
3 analysis.²⁹

4 RCW 36.70A.070(3)(b) requires a forecast of "future needs" for such existing
5 capital facilities. WSDF challenges the City for failing to adequately conduct
6 this analysis and the Board agrees. The Plan simply indicates that the City is
7 already well-built and that the basic infrastructure to serve the current
8 population and the small amount of projected population increase in the next
9 six years already exists. . . Part C also incorporates by reference the CIP.
10 Although the City's conclusion may prove to be accurate, the Plan currently
11 lacks the requisite analysis to verify this.³⁰

12 At about the same time, the Board in *Gig Harbor* looked to the Act's planning goals
13 and determined that park facilities are among the facilities for which the City must plan:

14 The GMA's planning goals at RCW 36.70A.020(1) and (9), coupled with that
15 at subsection (12), require the County to provide for adequate parks.
16 However, the County has full discretion in deciding what level of service is
17 adequate, and when, where and how parks will be developed. Because the
18 County has established minimum level-of-service standards for its parks and
19 addressed the need to develop additional parks in the Plan, it has complied
20 with planning goals 1 and 9 of the Act.³¹

21 Later, in *WSDF IV*, the Board noted that the City of Seattle has a unique
22 neighborhood planning program. In effect, the City has delegated the initial preparation of
23 neighborhood plans, which include capital facilities, utilities, transportation and land use to
24 the neighborhoods themselves, giving the neighborhoods substantial scope so long as
25 required growth is accommodated. However,

26 [t]he ultimate decision-makers in land use matters under the GMA are the
27 elected officials of cities and counties, not neighborhood activists or
28 neighborhood organizations. Citizens provide input to the land use decision-
29 making process, but "citizens do not decide."³²

30 ²⁹ *WSDF IV* at 14 (citing *WSDF I* at 50-51).

31 ³⁰ *WSDF I v. Seattle*, GMHB 94-3-0016, FDO (April 4, 1995), at 35.

32 ³¹ *Gig Harbor v. Pierce County*, GMHB 95-3-0016, FDO (October 31, 1995) at 14.

³² *WSDF IV* at 12; See *Benaroya v. Redmond*, GMHB 95-3-0072, FDO (March 25, 1996) at 22; ~~and~~ *WSDF III v. Seattle*, GMHB 95-3-0073, FDO (April 2, 1996) at 24.)

1 Therefore, the Board found that

2 . . . any provision or policy of a neighborhood plan that purports to guide land
3 use decision-making (including subarea or neighborhood plans, including
4 land use, capital facility and transportation planning) **must be incorporated**
5 **into the jurisdiction's comprehensive plan** to be implemented pursuant to
6 Chapter 36.70A RCW. Conversely, provisions or policies of a neighborhood
7 plan or program that will not be used to guide land use decision-making, and
8 therefore not be implemented pursuant to Chapter 36.70A RCW, need not be
9 incorporated into a jurisdiction's comprehensive plan.³³ **Emphasis added.**

10 The Neighborhood Planning Element of the City's comprehensive plan explains how
11 Seattle chose to integrate neighborhood planning:

12 In early 2000, the City concluded a five-year neighborhood planning
13 process. The City took three actions in response to each plan produced in
14 this process. From each plan a set of neighborhood specific goals and
15 policies were adopted into the Comprehensive Plan. These goals and
16 policies constitute the "adopted" neighborhood plans. The City also approved
17 by resolution a work-plan matrix indicating the intent of the City concerning
18 the implementation of specific recommendations from each neighborhood
19 plan. Finally, the City recognized by resolution that each plan, as submitted
20 to the City, constitutes the continuing vision and desires of the community.
21 The recognized neighborhood plans, however, have not been adopted as
22 City policy.³⁴

23 In summary, then, sub-area planning for high density neighborhoods requires that the
24 specific boundaries of the neighborhood be designated, and that an inventory and needs
25 analysis based on population projections be used to determine capital facilities needs,
26 including parks. This work need not be adopted into the City plan, but must be done to lay
27 the public participation groundwork and to support of the adequacy of the plan. Much
28 planning may be delegated to the neighborhood itself, but eventually the City Council must
29 adopt into its Comprehensive Plan those portions of the neighborhood plans that purport to
30 guide land use planning. It is these adopted policies that are given effect by development
31 regulations and must be consistent with other Plan provisions, including the Capital

32 ³³ WSDP IV at 11.

³⁴ Ex. 53: Seattle Comprehensive Plan, Neighborhood Planning Element, A. Introduction, discussion at 8.3.

1 Facilities Element. While the City has responsibility to conduct inventory and needs
2 analyses and to substantiate the sufficiency of its capital facilities plan, it retains discretion
3 to decide what its level of service standards will be. Once articulated, those standards and
4 the resulting needs assessment must be addressed consistently in the capital facilities
5 financing plan, here Seattle's Capital Improvement Plan (CIP).

6
7 In that context, the Board evaluates the various documents related to planning for the
8 community variously referred to as North Rainer, Mount Baker, and the McClellan Station –
9 planning that stretches back decades and more, and encompasses an exemplary, in the
10 Board's view, exchange between the community and City planners.

11 The more recent efforts leading up to the challenged Ordinance began with the North
12 Rainier Neighborhood Plan (February 1999).³⁵ The City's 2005 Comprehensive Plan update
13 designated the area as an urban village. After a lengthy public process, the North Rainier
14 Neighborhood Plan was again updated in January 2010 to designate the area as a **Hub**
15 **Urban Village**³⁶ in anticipation of light rail service to the Mount Baker Town Center, which
16 began in 2010.³⁷

17
18 Later that year, the Seattle Planning Commission³⁸ issued a *Seattle Transit*
19 *Communities* report containing recommendations for transit hubs in different types of
20 communities, including mixed use neighborhoods, along with specific funding and
21 implementation strategies. The Commission noted that:

22 . . . the success of Transit Communities requires three integral components:
23 investment in transit; appropriate zoning for focused, higher density
24
25
26

27 ³⁵ Ex. 27: *MOUNT BAKER TOWN CENTER Urban Design Framework* (October 2011) at 4.

28 ³⁶ Petitioners' Prehearing Brief at 12, Ex. 53: Seattle's Comprehensive Plan, Urban Village Element, Urban
29 Village Figure 1 at 1.8.

30 ³⁷ Ex. 1, Fiscal Note at 2.

31 ³⁸ Ex. 64, *Seattle Transit Communities, Integrating Neighborhoods with Transit – A report from the Seattle*
32 *Planning Commission* (November 2010) at 2 states:

The Planning Commission is comprised of 16 volunteer members appointed by the Mayor and the City Council, is the steward of the Seattle Comprehensive Plan. In this role, the Commission advises the Mayor, City Council, and City departments on broad planning goals, policies, and plans for the development of Seattle.

1 development; and necessary investment in the essential components for
2 livability.³⁹

3 Addressing the problem of funding of necessary facilities and infrastructure, “such as
4 parks, open space, libraries, sidewalks, plazas, pedestrian improvements and lighting,” the
5 Planning Commission report emphasizes, that “[w]ithout the essential components, urban
6 life becomes unattractive and inhospitable.”⁴⁰ Key actions identified as necessary to
7 maximize the transit investment include implementing the neighborhood plan update by
8 improving and expanding connections to the Mount Baker Station and the planned Rainier
9 Station; in particular:
10

11 . . . improve pedestrian connections to Franklin High School, Somali
12 Community Services, Seattle Lighthouse for the Blind, and the residential Mt.
13 Baker neighborhood to the east. Improve connections to and usability of the
14 Cheasty Greenspace.⁴¹

15 The next step came with the Department of Planning and Development (DPD) 2011
16 Mount Baker Town Center Urban Design Framework.⁴² The stated purpose of the Urban
17 Design Framework is:

18 . . . to guide the future work and investment of the community, developers
19 and the City to make [the] vision [of the North Rainier Neighborhood Plan
20 (February 1999)] a reality. It identifies the existing conditions and specific
21 planning and design strategies necessary to achieve the community’s
22 vision.⁴³

23 The Urban Design Framework contains numerous specific recommendations⁴⁴ and
24 projected timelines.⁴⁵ Under the chapter headed IMPLEMENTATION, the Urban Design
25

26
27 ³⁹ *Id.* at 32.

28 ⁴⁰ Ex. 64: *Seattle Transit Communities, Integrating Neighborhoods with Transit – A report from the Seattle*
29 *Planning Commission* (November 2010) at 32.

30 ⁴¹ *Id.* at 48.

31 ⁴² Ex. 27: *MOUNT BAKER TOWN CENTER Urban Design Framework* (October 2011) at 4.

32 ⁴³ *Id.*

⁴⁴ See, e.g., Ex. 27 at 16:

Provide bicycle infrastructure ... Make sidewalk network complete and safe ... Use mid-block crossings
to ... break down the scale of large blocks. Insert mid-block pathways as large blocks are redeveloped
... Increase pedestrian connections ... at S. Lander Street and S. Hanford Street.

1 Framework specifically anticipates the issuance of the DPD's Director's Analysis and
2 Recommendation as the source of "a detailed description and analysis of rezoned
3 recommendations."⁴⁶

4 Subsequently, the DPD issued the Director's Analysis and Recommendation on
5 North Rainier/Mount Baker Town Center Rezone Proposal,⁴⁷ which the Ordinance also
6 describes as preliminary to the adoption of the Ordinance.⁴⁸

7
8 The Director's Analysis states that the DPD recommended the rezones, amendments
9 to development standards, and incentive zoning "to implement the goals and policies of the
10 recent North Rainier Neighborhood Plan Update to develop a vibrant neighborhood core
11 that concentrates housing, employment, commercial uses and services . . . well served by a
12 range of comfortable and convenient travel options," concluding "[t]he proposed zoning fully
13 supports the Goals and Policies of the North Rainier Neighborhood Plan."⁴⁹ A stated goal of
14 the rezone was to "create a walkable town center around the Mount Baker light rail station"
15 within the North Rainier Hub Urban village.⁵⁰

16
17 Although the challenged Ordinance makes no amendments to Seattle's
18 Comprehensive Plan, it specifically references the updates to the North Rainier
19 Neighborhood vision and plan and Urban Design Framework⁵¹ as foundational to the rezone
20 process.

21 The area of the rezone is approximately eight blocks north and east of the Mount
22 Baker Light Rail station – blocks now developed with one- and two-story commercial
23

24
25 Streetscape recommendations focus on the three arterial streets – Rainier Avenue S. MLK Jr. Way S.
26 and S. McClellan Street. The street scape concepts ... align with the "Bowtie Traffic Concept". . . .

27 ⁴⁵ Ex. 27 at 29-30.

⁴⁶ *Id.* at 24.

⁴⁷ Ex. 3.

⁴⁸ Ex. 2 at 2.

⁴⁹ Ex. 3, at 14, 16-17.

⁵⁰ Ex. 1 at 1.

⁵¹ Ex. 27: *MOUNT BAKER TOWN CENTER Urban Design Framework* (October 2011) at 4 reads:

31 The purpose of this Urban Design Framework is to guide the future work and investment of the
32 community, developers and the City to make [the North Rainier Neighborhood Plan, January
2010] vision a reality. It identifies the existing conditions and specific planning and design
strategies necessary to achieve the community's vision.

1 buildings and parking lots. The rezone allows higher intensity Seattle Mixed zoning,
2 changes multifamily zoning designations, and increases heights on specific blocks to 65, 85,
3 or 125 feet. The Ordinance applies incentive zoning provisions for affordable housing and
4 open space amenities to residential developments in order to allow for more housing units
5 and foster job growth,⁵² and to “encourage future development that strengthens the
6 neighborhood’s core . . . [and] supports the neighborhood’s pedestrian environment”⁵³ . . .
7 “as redevelopment occurs.”⁵⁴ New development regulations include street-level uses and
8 development standards, upper-level setbacks, landscaping standards, and parking and
9 access regulations.⁵⁵

11 The 13-acre property now occupied by Lowe’s a block from the light rail station is
12 viewed as a special redevelopment opportunity and rezoned to the 125-foot maximum,
13 assuming use of incentive zoning provisions. The 2010 Neighborhood Plan envisioned a
14 major public open space bisecting this property.⁵⁶ The Urban Design Framework
15 recommended: “Use mid-block crossings to . . . break down the scale of large blocks. Insert
16 mid-block pathways as large blocks are redeveloped.”⁵⁷ The Ordinance requires that the
17 Lowe’s parcel be opened up with 60-foot wide internal passages that may be developed as
18 two-lane roads and parking.

20 Petitioners challenge the Ordinance’s allowance of substantially increased
21 development without adequate provision for either public open space at the heart of the
22 neighborhood or protection of the “ring of green” beyond the up-zoned area.

24 **B. Open Space needs of a Hub Urban Village (Issue 1 and 11) [Issue Two was**
25 **dismissed.]**

27 *Petitioners’ General Issue 1: Did the rezone violate NR-P33 of the neighborhood Planning*
28 *Element because it failed to preserve, protect or provide opportunities for the design of*

29 ⁵² Ex. 1, Fiscal Note at 1.

30 ⁵³ Ex. 3, Director’s Analysis at 3.

31 ⁵⁴ *Id.* at 11.

32 ⁵⁵ Ex. 2

⁵⁶ 2010 Neighborhood Plan, maps on pp. 13-15.

⁵⁷ Ex. 27, at 16

1 parks and open spaces to accommodate users of diverse ages, interests and cultures within
2 the Town Center rezone area (Issues 1 and 11)?

3 Issue One: Is the Ordinance inconsistent with **NR-P33** [North Rainier Policy 33] of the City's
4 Comprehensive Plan because it does not preserve, protect or provide opportunities for the
5 design of parks and open spaces and programming to accommodate users of diverse ages,
6 interests and cultures within the Town Center rezone area?

7 Issue 11: Is the Ordinance inconsistent with **NR-G13** and **NR-G14** [North Rainier Goals 13
8 and 14] of the City's Comprehensive Plan because it fails to consider, protect or provide
9 opportunities for reclamation and development of Cheasty Boulevard and Greenbelt, and
10 the 1909 Olmsted Parks and Boulevards Plan?

11 **NR-P33** Design parks and open spaces and programming to accommodate
12 users of diverse ages, interests and cultures.⁵⁸

13 **NR-G13** Cheasty Boulevard and Greenbelt has been reclaimed and
14 developed in a manner consistent with the 1909 Olmsted Parks and
15 Boulevards Plan.⁵⁹

16
17 **NR-G14** A "ring of green" surrounding the urban village with strong
18 connections to the greenbelts, boulevards and parks, augmented with a
19 hierarchy of open spaces.⁶⁰

20 **Applicable Law**

21 **RCW36.70A.040(3)** (city development regulations must implement
22 comprehensive plans)

23
24 (d) if the county has a population of fifty thousand or more, the county and
25 each city located within the county shall adopt a comprehensive plan under
26 this chapter and development regulations that are consistent with and
27 implement the comprehensive plan. . . .

31 ⁵⁸ Ex. 53: Seattle Comprehensive Plan, B-21 North Rainier Neighborhood Plan, Open Space Policies at 8.132

32 ⁵⁹ *Id.* at 8.131.

⁶⁰ *Id.*

RCW 36.70A.130 Comprehensive plans — Review procedures and schedules — Amendments.

(1)(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

RCW 36.70A.020 (Planning Goals to guide development and adoption of development regulations)

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner. . .

(9) Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities. . .

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water. . .

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. . . .

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance.

RCW 36.70A.320(3) (city actions must not be clearly erroneous in light of the GMA goals and requirements)

1 **Preserving Open Space**

2 **Positions of the Parties**

3 Asserting that the North Rainier Neighborhood Plan “governs” the North Rainier Hub
4 Urban Village, Petitioners allege that the Ordinance “violates” **NR-P33**⁶¹ because it “failed to
5 preserve, protect or provide opportunity for the design of parks and open spaces to
6 accommodate users of diverse ages, interests and cultures within the Town Center rezone
7 area.”⁶²

8
9 Petitioners point to a section of the Framework entitled “Open Space and Gateways”
10 which describe the existing open space system as a “ring of green; surrounding the Town
11 Center – the Cheasty Greenbelt, the Olmsted Boulevards and the slopes along the east
12 side of MLK Jr. Way S.” This section also highlights the conclusion of the Gap Report: “Of
13 the Southeast Sector’s five urban villages, the North Rainier Hub Urban Village has the
14 largest gaps in Usable Open Space. . . .”⁶³ Citing numerous Plan policies not cited in the
15 PFR, Petitioners assert that the City is required to insure that the new development
16 regulations “achieve public benefits to mitigate impacts of high density development,” but
17 that the incentive zoning provisions in the Ordinance have the opposite effect by providing
18 more density than mitigation.⁶⁴

19
20 The Framework includes specific recommendations, including:

- 21
 - 22 • **Create new open space in the Core.** Use new developments and public
23 improvements to increase green space within the Town Center. *Redevelopment*
24 *of the 13-acre Lowe’s site, the largest opportunity site, should include an open*
25 *space and pathways system that can break down this large block into a more*
26 *pedestrian friendly form.*

27 The City argues that the North Rainier Hub Urban Village already exceeds the
28 Comprehensive Plan’s goals for park acreage per household such that, even though the
29 rezone increases the village’s overall development capacity from 7,279 to 7,914 housing

30 ⁶¹ Ex. 53: Seattle Comprehensive Plan, Neighborhood Planning Element, B-21 North Rainier, open space
31 policies at 8.131.

32 ⁶² Petitioners’ Prehearing Brief at 13.

⁶³ Ex.27 at 20.

⁶⁴ Petitioners’ Prehearing Brief at 7-8, 14.

1 units,⁶⁵ there will still be more than enough open space per household.⁶⁶ Further, the Parks
2 Department has property “landbanked” for a new park at 35th and Charleston (seven or
3 eight blocks south of the transit station and Hub) that it hopes to develop under the new
4 Park District levy.⁶⁷ The City alludes to the needs of “other denser, faster growing areas that
5 are still under-performing on the park acreage per household goal” as competing for
6 prioritization in the department’s Capital Facilities planning.⁶⁸ Nevertheless, it concedes that
7 the North Rainier Hub does not meet the comprehensive plan goal of having a 10,000 sq. ft.
8 park within 1/8 mile **of each residential unit**.
9

10 Further, according to the City, any parcel could, theoretically, become a park
11 someday, thus preserving “park opportunities” throughout the rezone.⁶⁹
12

13 **Board Discussion**

14 Petitioners and Respondents urge the Board to start its analysis with significantly
15 different understandings of both the present day and future adequacy of Open Space in the
16 North Rainier Neighborhood. As discussed in the Background section *supra*, Seattle has
17 heeded prior decisions requiring an inventory and needs analysis for capital facilities.
18 Seattle divides open spaces into three relevant categories:
19

20 1. Usable Open Space: Within the boundaries of a hub urban village, Seattle’s 2005
21 Comprehensive Plan calls for one acre of Village Open Space per 1,000 households.
22 Useable open space must be “relatively level and open, easily accessible, primarily green
23 available for drop-in use.”⁷⁰ The spaces must be a minimum of ¼ acre in size and be
24 developed as a usable park space. Space on public school or college grounds does not
25 qualify. Similarly, boulevards without park amenities, undeveloped greenbelts, and natural
26
27

28 ⁶⁵ Ex. 3, Director’s Analysis at 13. This estimate is nearly twice the estimated 362 unit/20 years anticipated by
29 the Framework. See Ex. 27 at 27.

30 ⁶⁶ City’s Prehearing Brief at 2.

31 ⁶⁷ *Id.*; City’s comments at HOM.

32 ⁶⁸ City’s Prehearing Brief at 2-3.

⁶⁹ *Id.* at 10.

⁷⁰ Ex. 58: *An Assessment of Gaps in Seattle’s Open Space Network: The 2011 Gap Report Update* (May 13, 2011) at 2, 7-8.

1 areas do not qualify.⁷¹ The City's useable open space goals are **distribution based**,
2 meaning that adequacy is not evaluated city-wide. Useable open space must be located
3 within 1/8 mile of the hub urban village.⁷²

4 2. Breathing Room Open Space: This category includes all types of open space,
5 including natural areas and golf courses, but does not include public school or college
6 grounds or Parks Department property that is either undeveloped or built out without open
7 space amenities (such as pools, administrative facilities, and maintenance facilities). The
8 City defines a two-level goal:
9

10 a. *Desirable*: 1 acre per 100 residents

11 b. *Acceptable*: 1/3 acre per 100 residents⁷³

12 3. Village Commons: For Hub Urban Villages, Seattle's 2005 Comprehensive Plan
13 identifies the goal of "at least one Usable Open Space of at least one acre in size" located
14 within the boundaries of the urban village and not separated from the urban village by
15 difficult terrain or a major arterial.⁷⁴
16

17 Applying the comprehensive plan goals city-wide, the 2011 Gap Report Update finds
18 the Breathing Room Open Space goal for available acreage is met at both the desirable and
19 acceptable levels.⁷⁵ Further, the acreage goals for Village Commons are met.⁷⁶ The report
20 states that all the urban villages have sufficient Usable Open Space, but contradicts itself on
21 the same page by stating "**the North Rainer Hub Urban Village has the largest gaps in**
22 **Usable Open Space with over half of the Urban Village located farther than 1/8 of a**
23 **mile from park sites.**" The Board fails to see how the Hub Urban Village can have sufficient
24 useable open space if the space that is being counted is too far away to qualify as useable.
25 In fact, the area being up-zoned for highest density appears to be furthest from existing
26 parks. This situation is made worse by the fact that existing open spaces are separated from
27
28

29
30 ⁷¹ *Id.* at 2, 5-6.

⁷² *Id.* at 8-9.

31 ⁷³ *Id.* at 6.

⁷⁴ *Id.* at 10.

32 ⁷⁵ *Id.* at 6.

⁷⁶ *Id.* at 51.

1 the urban Hub by two high-volume arterials, each carrying over 30,000 vehicle trips daily,⁷⁷
2 with inadequate pedestrian crossings. In one block of the upzoned Hub along Martin Luther
3 King Jr. Way, there is not even a sidewalk.

4 In its report, *Mount Baker Station Area Open Space Nexus Analysis*, the DPD
5 recommended increasing the allowed structure height to provide incentive zoning programs
6 that help provide affordable housing and other amenities. DPD notes that **open space has**
7 **been identified as a priority amenity in the North Rainier Hub Urban Village** and
8 evaluates the current availability and deficits in open space, emphasizing that the City's
9 Comprehensive Plan "affirms the importance of a variety of open space opportunities."⁷⁸

10 As with the 2011 Open Space Gap Report Update, the Nexus Analysis notes that the
11 North Rainier Hub Urban Village has sufficient open space to meet population-based goals,
12 but that the space is predominantly comprised of a few large parks located on the edge of
13 the Hub Urban Village and a significant distance from the Station Area. None of the parks is
14 located in the Station Area.
15

16 The North Rainier Hub Urban Village is a particularly large and linear urban
17 village compared with other urban villages, so it is likely appropriate to
18 consider the Station Area as well as the Urban Village. If the Station Area
19 were used as the unit for calculating residential population-based goals, it
20 would not meet these goals as there are no parks within the station area . . .
21 Martin Luther King Jr. Memorial Park is not immediately accessible to the
22 Station Area given that it is geographically separated from the Station area
23 by a large arterial street and a substantial grade change.⁷⁹

24 Addressing the Breathing Room Goals, the report notes that the Comprehensive Plan
25 doesn't provide breathing room goals for local areas, so that it is not appropriate to apply
26 this standard to the Mount Baker Station Area, yet it notes that thoughtfully-planned open
27 space will be critical to the success of a pedestrian-friendly transit hub at this location:
28

29 The environment is very uninviting to pedestrians as there are very few areas
30 to rest or relax. In order to maximize the investment of the light rail station in
31

32 ⁷⁷ Petitioners' Prehearing Brief at 2.

⁷⁸ Ex. 59: *Mount Baker Station Area Open Space Nexus Analysis* (December 5, 2012) at 1.

⁷⁹ *Id.* at 2.

1 this area, it will [be] very important to develop more open space opportunities
2 that can help to make this area a more pleasant place for pedestrians. Small,
3 local open space opportunities will be especially important since the large
4 roads and auto-oriented environment discourage walking.

5 Overall, this analysis suggests there is a substantial existing open space
6 need within the Mount Baker Station Area that would justify allowing public
7 open space amenities to count toward incentive zoning.⁸⁰ The majority of the
8 area does not appear to meet distribution standards and the population-
9 based standard is not met within the Station Area. Martin Luther King Jr.
10 Memorial [Park] represents the only major amenity for the area and is
11 separated by substantial barriers which make it unlikely to be used on a
12 regular basis by users of the Station Area. Additionally, the large roads and
13 auto-oriented environment create a very inhospitable situation for
14 pedestrians which could be someone [sic] meliorated [sic] by the presence of
15 open space.⁸¹

16 The City cannot have it both ways. Either there is a lack of open space that justifies
17 incentive zoning provisions, or there is plenty of open space such that provisions
18 incentivizing developers to provide public open space are not appropriate.

19 **The Board finds** the City's extensive inventory, needs analysis, and planning
20 documents amply demonstrate that the current level of useable open space in the North
21 Rainier Hub Urban Village is inadequate to satisfy its distribution-based goals. The question
22 then becomes whether adoption of the Ordinance makes this issue subject to review now,
23 or whether it is a matter for the 2015 Plan update.

24 **Consistency of Neighborhood Plans and Comprehensive Plan.**

25 **Positions of the Parties**

26 Petitioners start by asserting that the City violated the requirements of RCW
27 36.70A.020,⁸² requiring GMA planning goals to guide the adoption of development
28
29
30

31 ⁸⁰ *Id.* at 5.

32 ⁸¹ *Id.* at 3-4.

⁸² Planning Goals to guide development and adoption of development regulations.

1 regulations, and RCW 36.70A.040(3)⁸³ and RCW 36.70A.130(1)(d),⁸⁴ requiring development
2 regulations to be consistent with and implement the comprehensive plan.⁸⁵ Petitioners urge
3 that planning documents, including the North Rainier Neighborhood Plan Update adopted in
4 2010, the Planning Commission's 2011 *Transit Oriented Communities* report,⁸⁶ the DPD's
5 2011 *Urban Design Framework*,⁸⁷ and the *Mount Baker Station Area Open Space Nexus*
6 *Analysis*,⁸⁸ must be "read as a whole"⁸⁹ with the comprehensive plan. The implication is that
7 failure to incorporate Department recommendations within the rezone has resulted in
8 development regulations that are inconsistent with, or fail to implement, the comprehensive
9 plan in violation of RCW 36.70A.130(1)(d). For the proposition that "inconsistency is not
10 tolerated" between the comprehensive plan and neighborhood plans, Petitioners cite
11 Comprehensive Plan policy N2, which reads:
12

13 Maintain consistency between neighborhood plans and the Comprehensive
14 Plan. In the event of an inconsistency between the comprehensive plan and
15 a proposed neighborhood plan, **consider** either amendments to the
16 comprehensive plan which are consistent with its core values, or
17 amendments to the neighborhood plan. (**Emphasis added.**)

18 In support of their theory, Petitioners note that the Director's Analysis &
19 Recommendation describes the Ordinance as "the product of a two-year neighborhood plan
20 update process" and states the DPD recommends the rezone, amendments to development
21 standards, and incentive zoning based on the 2011 *Urban Design Framework* "to carry out
22 key actions identified by the community during the recent update of the North Rainier
23

24
25
26 ⁸³ RCW 36.70A.040(3)(d): "... each city ... shall adopt a comprehensive plan under this chapter and
development regulations that are consistent with and implement the comprehensive plan ..."

27 ⁸⁴ RCW 36.70A.130(1)(d) reads:

28 Any amendment of or revision to a comprehensive land use plan shall conform to this chapter.

29 Any amendment of or revision to development regulations shall be consistent with and implement
the comprehensive plan.

30 ⁸⁵ Petitioners' Prehearing Brief at 10.

31 ⁸⁶ Ex. 64, *Seattle Transit Communities, Integrating Neighborhoods with Transit – A report from the Seattle
Planning Commission* (November 2010).

32 ⁸⁷ Ex. 27: *MOUNT BAKER TOWN CENTER Urban Design Framework* (October 2011).

⁸⁸ Ex. 59: *Mount Baker Station Area Open Space Nexus Analysis* (December 5, 2012).

⁸⁹ Petitioners' comments at the HOM.

1 Neighborhood Plan 2011” and encourage future development that “strengthens the
2 neighborhood’s core” and “supports the neighborhood’s pedestrian environment. . . .”⁹⁰

3 The City responds that the Ordinance did not amend the City’s Comprehensive Plan,
4 but merely enacted development regulations. Although the Official Land Use Map was
5 amended to rezone certain land and the Mount Baker Station Area Overlay District was
6 expanded, it did not expressly amend the Comprehensive Plan’s Future Land Use Map.⁹¹
7 Under the provisions of its Land Use element,⁹² the rezones in the Ordinance do not require
8 amendments to the Future Land Use Map of the Comprehensive Plan, because they do not
9 “significantly change” the function of the areas rezoned from the function shown on the
10 Future Land Use Map. Thus allegations that the Ordinance creates a comprehensive plan
11 inconsistency would be misplaced and untimely.

12 Further, the City argues that RCW 36.70A.040(3) and RCW 36.70A.130(1)(d) are
13 only applicable to those policies of the North Rainier Neighborhood Plan that have been
14 adopted into the comprehensive plan. Therefore, the Ordinance need not be consistent with
15 the Framework and other documents, because they “are not the Comprehensive Plan.”⁹³

16 Secondly, the City asserts that “there is no requirement in the Comprehensive Plan
17 or GMA that the City must do all the possible actions identified in the adopted Neighborhood
18 Plan concurrently with Ordinances adopting development regulations.”⁹⁴ Instead, the City
19 argues that consistency requires only that the regulations advance **at least one goal of the**
20 **Comprehensive Plan**,⁹⁵ and it is only noncompliant if it thwarts⁹⁶ a comprehensive plan
21
22
23
24
25

26 ⁹⁰ Ex. 3; Director’s Analysis & Recommendation at 3; Petitioners’ Prehearing Brief at 3.

27 ⁹¹ City’s Prehearing Brief at 15; Ex. 51: Ordinance at 2.

28 ⁹² City cites LU2, LU3, LU4.

29 ⁹³ City’s response at the HOM.

30 ⁹⁴ City’s response at the HOM.

31 ⁹⁵ City’s response at the HOM; See City’s Prehearing Brief at 7-8 (citing *Koontz Coalition v. Seattle*, GMHB 14-
32 3-0005 FDO (August 19, 2014) at 18-19; listing NR G1, NR G17, NR G19, and NR G20 as goals identified in
Director’s Analysis). The Board notes the City’s assertions unduly stretch the *Koontz* ruling, in which the Board
found petitioner failed to demonstrate the comprehensive plan policies it relied upon were thwarted, and the
City showed other policies were weighed and balanced.

⁹⁶ City’s Prehearing Brief at 7 (citing *Chevron U.S.A. Inc. v. Hearings Bd.*, 123 Wn. App. 161, 93 P.3d 880,
2004 Wash. App. LEXIS 1129 (Div. I 2004)).

1 directive.⁹⁷ The City also puts considerable weight on the Director's Analysis which identifies
2 goals other than NRP33 that the upzone supports and asserts GMA Goal 12⁹⁸ is not
3 thwarted.

5 **Board Discussion**

6 The Board has previously held in *WSDF IV* that:

7 Any provision or policy of a neighborhood plan that purports to guide land
8 use decision-making (including subarea or neighborhood plans including land
9 use, capital facilities and transportation planning) must be incorporated into
10 the jurisdiction's comprehensive plan to be implemented pursuant to Chapter
11 36.70A RCW. Conversely, provisions or policies of a neighborhood plan or
12 program that will not be used to guide land use decision-making, and
13 therefore will not be implemented pursuant to Chapter 36.70A RCW, need
14 not be incorporated into a jurisdiction's comprehensive plan.⁹⁹

15 The *WSDF IV* decision was rendered at a time when some jurisdictions had adopted
16 neighborhood or sub-area plans prior to adopting their comprehensive plans under GMA.
17 Today, most jurisdictions adopt a neighborhood or sub-area plan as a further refinement of
18 their comprehensive plan.¹⁰⁰ Seattle's extensive process for delegating the adoption of
19 neighborhood plans to the community and then picking and choosing which policies will
20 actually be implemented by adoption into the comprehensive plan is somewhat unusual. It is
21 not surprising that some in the community may believe that the neighborhood plans "meant
22 more."

23 Nevertheless, **the Board finds** Seattle's process is within its legislative discretion.

24 As regards the *sufficiency* of open space, the City has thoroughly explored the
25 amount, type, and kind of existing open space. The ample evidence suggests that satisfying
26
27

28 ⁹⁷ City's response at the HOM.

29 ⁹⁸ RCW 36.70.020(12) says: "Public facilities and services. Ensure that those public facilities and services
30 necessary to support development shall be adequate to serve the development at the time the development is
31 available for occupancy and use without decreasing current service levels below locally established minimum
standards."

32 ⁹⁹ *WSDF IV*, FDO (March 24, 1997) at 11.

¹⁰⁰ *Laurelhurst Community Club v. City of Seattle*, GMHB 03-3-0008, Order on Motions (June 18, 2003) at 8,
"subarea plans typically augment and amplify policies contained in the jurisdiction-wide comprehensive plan."

1 comprehensive plan and neighborhood goals for the North Rainier Hub Urban Village will
2 require development of more usable open space. The question of concurrency is discussed
3 in section D below.

4 The Director's statement describes the Ordinance as "the product of a two-year
5 neighborhood plan update process."¹⁰¹ Given the many assertions in the Director's Analysis
6 and the Ordinance itself declaring that the intent of this action was to advance neighborhood
7 priorities and implement recommendations from the *Urban Design Framework*, it can come
8 as no surprise that Petitioners expected more adherence to the key priorities of open space
9 and pedestrian-friendly design identified in the Neighborhood Plan and Framework. The
10 City's suggestion that Petitioners' expectations were a "fanciful inference" is almost
11 disrespectful. That said, the Board must agree with the City that the GMA imposes no
12 requirement that a comprehensive plan be consistent with those portions of neighborhood
13 plans that have not been adopted into the comprehensive plan, as is the case with the North
14 Rainier 2010 update, nor is a challenge to the internal consistency of the City's
15 Comprehensive Plan timely absent any amendment to the comprehensive plan.
16

17 **The Board finds** that Petitioners' allegations of internal consistency within the City's
18 comprehensive plan (RCW 36.70A.130 (1)(d)) is untimely. Therefore, the insufficiency of
19 useable open space in the North Rainier Hub Urban Village to satisfy distribution-based
20 goals is not subject to review at this time.
21
22

23 **Consistency of Development Regulations with Adopted Comprehensive and**
24 **Neighborhood Plan**

25 The dispositive question, then, is whether development regulations that do not
26 realize, or commit to realizing, the **adopted** comprehensive plan goals and policies for the
27 North Rainier Neighborhood violate the consistency requirements of RCW 36.70A.040(3)
28 and 36.70A.130(1)(d). Petitioners' Legal Issue 1 addresses the mid-block open-space on
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32

¹⁰¹ Ex. 3, Director's Analysis and Recommendations at 3.

1 the Lowe's parcel. Legal Issue 11 addresses the "ring of green" at the exterior of the up-
2 zoned area.

3 *Mid-block Open Space on Lowe's Parcel*

4 Petitioners' Legal Issue 1 asserts the rezoning violates NRP-33 by failing to "[d]esign
5 parks and open spaces and programming to accommodate users of diverse ages, interests,
6 and cultures." In contrast to the planning commission's *Transit Communities* goal statement
7 that "open space areas near transit stations are essential components of livability,"¹⁰²
8

9 Petitioners observe that the Ordinance allows the mid-block open space corridor on the
10 Lowe's parcel, which was to be a green open space and pathway system under the
11 Framework,¹⁰³ to include a 2-lane vehicle access road with parking on its margins, plus
12 landscaping and sidewalks.¹⁰⁴ Petitioners assert these shortcomings fail to implement
13 comprehensive plan policies and goals in violation of RCW 36.70A.040(3) and RCW
14 36.70A.130(1)(d).¹⁰⁵
15

16 There can be no doubt that a road with sidewalks is unlikely to function as a park,
17 although it will likely be landscaped and provide a pedestrian/bicycle corridor. As these
18 interior roadways will serve residents and visitors to four, 8-12 story buildings, this cannot
19 qualify as usable public open space. Regrettably, Petitioners again face the problem that
20 the specific expectations promoted within the *Urban Design Framework* have not been
21 adopted into the City's comprehensive plan and so are not mandated to be included in this
22 rezone. Further, Petitioners have not demonstrated the policy is thwarted by the upzone of
23 the Lowe's parcel, as this may not be the only opportunity for usable open space
24 development in the Mount Rainier Town Center.
25

26 **The Board finds** Petitioners have not met their burden to show that the development
27 regulations are inconsistent with the City's Comprehensive Plan. Legal Issue 1 is dismissed.
28
29
30

31 ¹⁰² Petitioners' Prehearing Brief at 14; See Ex. 64, *Seattle Transit Communities* at 17-18.

32 ¹⁰³ Ex. 27: Urban Design Framework at 22, photo at 20.

¹⁰⁴ City's response at HOM.

¹⁰⁵ Petitioners Prehearing Brief at 10-15.

1 “Ring of Green”

2 Petitioners’ Legal Issue 11 asserts failure of the Ordinance to consider and protect
3 the Cheasty Boulevard and Greenbelt and the 1909 Olmstead Parks and Boulevard Plans is
4 inconsistent with adopted goals of the North Rainier plan. Petitioners contend the upzoned
5 Hub violates NR-G13 including reclamation of Cheasty Boulevard and the Olmstead
6 Plans¹⁰⁶ and NR-G-14 requiring urban village design with “strong connections” to the
7 surrounding “ring of green.”¹⁰⁷ The City asserts that development regulations are only
8 inconsistent if they “thwart” the implementation of comprehensive plan policies¹⁰⁸ and that
9 “goals” represent the results that the City hopes to realize over time, perhaps within the 20-
10 year life of the Plan, and are not mandates.
11

12 Plans provide policy direction to land use decision-making by providing
13 guidance and direction to development regulations, which must be consistent
14 with and implement the Comprehensive Plan. In turn, these development
15 regulations govern the review and approval process for development
16 permits.¹⁰⁹

17 Here, the City’s upzone of the Mount Baker Transit Station area did not extend to the
18 Cheasty Greenbelt or the Olmstead Boulevards which lie beyond the more-intense
19 redevelopment zone. Petitioners have not demonstrated comprehensive plan goals NRG-
20 13 and NRG 14 will be thwarted by the additional development allowance.
21

22 **The Board finds** Petitioners have not met their burden to show that the Ordinance
23 precludes implementation of comprehensive plan policies or attainment of plan goals.

24 **Legal Issue 11 is dismissed.**

25
26 **C. View preservation (remaining part of Issue 3)**

27 *Petitioners’ General Issue 3: Is the Ordinance Inconsistent with LU-48 because it fails to*
28 *preserve and Enhance Important Views from the Town Center Rezone, Including Mount*
29 *Rainier and the “Ring of Green” (Issue 3)?*

30
31 ¹⁰⁶ NR G13.

32 ¹⁰⁷ NR G14.

¹⁰⁸ City’s Prehearing Brief at 7 (citing *Leenstra*).

¹⁰⁹ *Bremerton II v. Kitsap County*, GMHB 04-3-0009c, FDO (August 9, 2004), at 15.

1 Is the Ordinance inconsistent with LU48 and LU73 of the City's Comprehensive Plan
2 because the City failed to balance housing needs with the surrounding neighborhood
3 character; failed to properly identify, preserve and enhance important open spaces, green
4 spaces and views in or near the Town Center rezone area?

5 **LU48** Seek to preserve views through:

- 6 • land use regulations that address view impacts with height, bulk, scale, view
- 7 corridor and design review provisions;
- 8 • zoning policy that considers the effect of zone designations on views, with
- 9 special emphasis on protection of views related to shoreline areas; and
- 10 • application of adopted environmental policy to protect public views, including
- 11 views of mountains, major bodies of water, designated landmarks and the
- 12 Downtown skyline, in review of development projects.¹¹⁰

13 **LU73** Balance the objective to increase opportunities for new housing
14 development to ensure adequate housing for Seattle's residents with the
15 equally important objective of ensuring that new development is compatible
16 with neighborhood character.¹¹¹

17 **NRG-18** Rainier Ave. S. is a highly functioning multimodal "complete street"
18 that serves as the spine of the Rainier Valley and retains its existing vistas of
19 Mount Rainier.¹¹²

20 **Positions of the Parties**

21 Petitioners assert that the City's enactment of the rezone was clearly erroneous
22 because it failed to preserve views of Mount Rainier from Rainier Avenue and of the "ring of
23 green" as required by the neighborhood plan¹¹³ because "there was no deliberate effort to
24 require setbacks needed to preserve the view . . . that the community wanted to preserve."

25 The City first submits Exhibits 20,¹¹⁴ 24,¹¹⁵ and 32¹¹⁶ to support its assertion that
26 Petitioners did not raise the view preservation issue with the Council and therefore lack
27

28 ¹¹⁰ Ex. 53: Seattle Comprehensive Plan, Land Use Element, A-2. Uses: views policy at 2.11

29 ¹¹¹ Ex. 53: Seattle Comprehensive Plan, Land Use Element, B-2. Multifamily Residential Areas: policies at
30 2.16.

31 ¹¹² Cited for the first time in Petitioners' PowerPoint at the HOM.

32 ¹¹³ Petitioners' Prehearing Brief.

¹¹⁴ Ex. 20: Abolins' email to CM O'Brien and Harrell.

¹¹⁵ Ex. 24: Petitioner Abolins' testimony to Council May 1, 2014, transcribed by Trudy Jaynes.

¹¹⁶ Ex. 32: Petitioner Abolins' testimony to Council May 20, 2014, transcribed by Trudy Jaynes.

1 participation standing. In reply, Petitioners cite the Board's previous denial of the City's
2 motion to dismiss issues regarding protection of existing public facilities.¹¹⁷

3 Next the City suggests that one of the adopted neighborhood plan policies, **NR-G18**,
4 "modifies" the general policy in **LU48** requiring the City to "Seek to preserve views" such
5 that the only view specifically protected in the comprehensive plan is the existing view of
6 Mount Rainier from Rainier Avenue.¹¹⁸

7
8 The City also asserts that Petitioners have not cited evidence in the record showing
9 that existing views will be impaired.

10 **Board Discussion**

11 Standing

12
13 The Board's Order on Motions addressed the issue of protection of public facilities.
14 Petitioners have submitted no rebuttal evidence showing they raised the issue of views
15 before the Council, nor have they argued for APA standing.

16 **The Board finds** Petitioners do not have standing to raise the issue of view
17 preservation.

18 View obstruction

19
20 Standing aside, the Board officially notices the fact that Rainier Avenue S. runs
21 directly toward Mount Rainier. Given that the Ordinance does not propose to locate building
22 on the street itself, the view of the mountain from Rainier Avenue is protected as required by
23 **NR-G18**.

24
25 It is likely that Petitioners' argument would fail for reasons similar to some previously
26 discussed allegations: they seek to enforce comprehensive plan requirements that employ
27 verbs such as "seek to" and "balance." Additionally, Petitioners have submitted no evidence
28 that would allow the Board to determine which views the City has not sought to preserve,
29 nor have Petitioners identified what statute they allege the City has violated.

30
31
32 ¹¹⁷ Order on Motions (December 10, 2014) at 4-5.

¹¹⁸ City's Prehearing Brief at 12-14.

1 **The Board finds** Petitioners have not carried their burden to prove the Ordinance
2 fails to comply with GMA provisions.

3 **Issue 3 is dismissed.**

4
5 **D. Concurrency of Capital Facilities Planning (Issues 4, 5, 7, 8, 9)**

6 *[Issue 6 is deemed abandoned]*¹¹⁹

7 *Petitioners General Issue 4. The Ordinance violates the GMA and Comprehensive Plan*
8 *because it fails to address the amount, types, and distribution of open space necessary to*
9 *serve the dense growth targeted for the new Town Center (Issues 4,5,7,8, and 9).*

10
11 Issue Four: Is the Ordinance and Capital Facilities Plan inconsistent with UV46, UV49,
12 UV51 and UV53 of the Comprehensive Plan, RCW 36.70A.070(3) and (8) and WAC 365-
13 196-415 because it neither analyzes nor strives to accomplish the open space standards
14 identified in the Neighborhood Plan and Urban Village Appendix B for the amount, types,
15 and distribution of open space necessary to serve the new Town Center residents, thereby
defeating the express goals of UV3, UVG12, UVG15, UVG37, UVG39?

16 Issue Five: Is the Ordinance inconsistent with UV-2, UV-7.5 and UV 10.5 of the
17 Comprehensive Plan because the City failed to consider, preserve or promote conditions
18 necessary to support healthy Town Centers, including those conducive to helping mixed-
19 use urban village communities thrive, such as a minimum range of park and open space
20 facilities, and community food gardens to support access to healthful food for the dense
areas within the Town Center?

21
22 Issue Seven: Is the Ordinance and Capital Improvement Plan inconsistent with N10, N11,
23 N12, N13 and N14 of the Comprehensive Plan because the City failed to: (1) establish a
24 firm and clear relationship between the City's budgeting processes and the adopted
25 Neighborhood Plan; (2) demonstrate how the urban village strategy reflected in the
26 Neighborhood Plan and related project documents shall be effectively carried out under the
27 rezone Ordinance; and (3) properly consider and utilize the adopted North Rainier
Neighborhood Plan goals, policies and work plan matrices to balance competing goals?

28 Issue Eight: Is the Ordinance (including its Fiscal Note) inconsistent with CFG4, CFG5,
29 CF1, CF2, CF7, and CF8 of the Comprehensive Plan and the Capital Improvement Plan
30 where the City failed to provide for the siting and design of open space and other required
31 green features (including community gardens) in a manner that would allow them to be

32
¹¹⁹ See Preliminary Matters, *supra*.

1 considered assets to the Town Center community; and they fail to consider and encourage
2 protection of City-owned historic facilities, including the Olmsted Boulevards, Cheasty Green
3 Space, and Franklin High School, in light of the values and social equities reflected in the
4 Neighborhood Plan?

5 Issue Nine: Is the Ordinance (including its Fiscal Note, and the City's related financial
6 budgeting processes) and the Capital Investment Plan inconsistent with CF1, CF2, CF7,
7 CF8, CF9, CF10, CF11 and CF-F¹²⁰ of the Comprehensive Plan where the City failed to
8 properly consider, plan, preserve and provide opportunities for necessary open space,
9 parks and playgrounds needed to bridge the recognized gaps in those facilities, and to
10 create an incentive for public and private investment in and near the Town Center area?

11 **Applicable Law**

12 RCW 36.70A.070 reads, in pertinent part:

13 (3) A capital facilities plan element consisting of: (a) An inventory of existing
14 capital facilities owned by public entities, showing the locations and
15 capacities of the capital facilities; (b) a forecast of the future needs for such
16 capital facilities; (c) the proposed locations and capacities of expanded or
17 new capital facilities; (d) at least a six-year plan that will finance such capital
18 facilities within projected funding capacities and clearly identifies sources of
19 public money for such purposes; and (e) a requirement to reassess the land
20 use element if probable funding falls short of meeting existing needs and to
21 ensure that the land use element, capital facilities plan element, and
22 financing plan within the capital facilities plan element are coordinated and
23 consistent. Park and recreation facilities shall be included in the capital
24 facilities plan element. . .

25 (8) A park and recreation element that implements, and is consistent with, the
26 capital facilities plan element as it relates to park and recreation facilities. . . .

27 WAC 365-196-415 reads, in pertinent part:

28 (1) Requirements. The capital facilities element of a comprehensive plan
29 must contain at least the following features:

30 (a) An inventory of existing capital facilities owned by public entities, also
31 referred to as "public facilities," showing the locations and capacities of the
32 capital facilities;

¹²⁰ There is no policy CF-F. Petitioners appear to be referring to a discussion section; See Ex. 53: Seattle's Comprehensive Plan, Capital Facilities Element, F. Consistency & Coordination at 5.8.

1 (b) A forecast of the future needs for such capital facilities based on the land
2 use element;

3 (c) The proposed locations and capacities of expanded or new capital
4 facilities;

5 (d) At least a six-year plan that will finance such capital facilities within
6 projected funding capacities and clearly identifies sources of public money
7 for such purposes; and

8 (e) A requirement to reassess the land use element if probable funding falls
9 short of meeting existing needs and to ensure that the land use element,
10 capital facilities plan element, and financing plan within the capital facilities
11 plan element are coordinated and consistent. Park and recreation facilities
12 shall be included in the capital facilities plan element. . .

13 (3) Relationship between the capital facilities element and the land use
14 element.

15 (a) Providing adequate public facilities is a component of the affirmative duty
16 created by the act for counties and cities to accommodate the growth that is
17 selected and allocated, to provide sufficient capacity of land suitable for
18 development, and to permit urban densities.

19 (b) The needs for capital facilities should be dictated by the land use
20 element. The future land use map designates sufficient land use densities
21 and intensities to accommodate the population and employment that is
22 selected and allocated. The land uses and assumed densities identified in
23 the land use element determine the location and timing of the need for new
24 or expanded facilities.

25 **Does the City's comprehensive plan impose a duty to concurrently update the CIP?**

26 **Positions of the Parties**

27 Petitioners assert that the Planning Commission stressed the City's obligation to
28 coordinate the Comprehensive Plan Urban Village strategy with the Capital Improvement
29 Plan (CIP) and other City capital investments, citing Exhibit 64, *Seattle Transit Communities*
30 at 38,¹²¹ and then "completely failed to plan for capital facility investment [sic] needed to
31 overcome the worsening open space gaps created by its self-defeating and ineffective open
32 space incentive formulas."¹²² Asserting that, under RCW 36.70A.120,¹²³ the City was

¹²¹ Petitioners attached portions of Ex. 64 to their Prehearing Brief, but not p. 38.

¹²² Petitioners' Prehearing Brief at 9.

1 required to perform its activities and make capital budget decisions in conformity with its
2 comprehensive plan policies, and GMA planning goals,¹²⁴ Petitioners allege that Seattle
3 violated RCW 36.70A.070(3), which requires the City to include a plan, scheme or design
4 for park and recreation facilities within its capital facilities plan element.¹²⁵

5 Petitioners allege that the City's Capital Facilities element mandates that the City's
6 CIP must be "**concurrently** updated with the rezone to **proactively** accommodate the
7 substantial density and growth"¹²⁶ because the discussion section, identified by Petitioners
8 as **CF-F**, reads:
9

10 Consistency & Coordination: discussion: As part of the City's CIP process,
11 the City considers whether probable funding will be sufficient to meet the
12 currently identified needs for new or expanded city capital facilities to
13 accommodate planned growth. Should anticipated funding not materialize, or
14 should new needs be identified for which no funding is determined to be
15 probable, the City will reassess the land use element of this Plan to ensure
16 that it is coordinated, and consistent, with this element, and in particular with
17 the six-year finance plan. A review for coordination and consistency between
18 this Element and the Land Use Element will be part of the City's annual
19 budget review and Comprehensive Plan amendment processes.¹²⁷

20 Petitioners cite numerous comprehensive plan policies and goals in support of their
21 assertion that the City was obligated, at the least, to revise its CIP concurrent with the
22 rezone to provide for the needed North Rainier usable open space. Most of the cited
23 policies employ verbs like "consider,"¹²⁸ "promote,"¹²⁹ "encourage,"¹³⁰ "strive,"¹³¹
24

25 ¹²³ RCW 36.70A.120 **Planning activities and capital budget decisions — Implementation in conformity**
26 **with comprehensive plan.**

27 Each county and city that is required or chooses to plan under RCW 36.70A.040 shall perform its
28 activities and make capital budget decisions in conformity with its comprehensive plan.

29 ¹²⁴ Petitioners' Prehearing Brief at 17; Order On Motions (December 10, 2014) at 8-10.

30 ¹²⁵ Petitioners' Prehearing Brief at 16, 22.

31 ¹²⁶ Petitioners' Prehearing Brief at 18. **Emphasis added.**

32 ¹²⁷ There is no policy **CF-F**. Petitioners appear to be referring to a discussion section; See Exhibit 53: Seattle's
Comprehensive Plan, Capital Facilities Element, F. Consistency & Coordination at 5.8.

¹²⁸ **UV3, UV49, UV53, N6, N13, N14, CF2, CF7, CF8, CF9, CF11, CF-F.**

¹²⁹ **UV1, UV2, UVG12.**

¹³⁰ **UV 10.5, CF8, CF9.**

¹³¹ **UV 46, CF1 (in part).**

1 “coordinate,”¹³² “help balance,”¹³³ “explore,”¹³⁴ and “seek,”¹³⁵ but directive verbs such as
2 “provide” and “establish” make a number of the cited policies obligatory:

3 **N10** Establish a firm and clear relationship between the City’s budgeting
4 processes and adopted neighborhood plans and, using the biennial budget,
5 demonstrate how the urban village strategy is being carried out.

6 **N11** Assess as part of the City’s budget process, neighborhood plan
7 implementation needs and resources, taking into consideration the results of
8 implementation activities for each area and public input into the budget
9 process.¹³⁶

10 **CF1** Plan capital investments strategically, in part by striving to give priority
11 to areas experiencing or expecting the highest levels of residential and
12 employment growth when making discretionary investments for new facilities.
13 The City will use fiscal notes and policy analysis to assist in making informed
14 capital investment choices to achieve the City’s long-term goals.¹³⁷

15 **UVG15** Provide parks and open space that are accessible to urban villages
16 to enhance the livability of urban villages, to help shape the overall
17 development pattern, and to enrich the character of each village.¹³⁸

18 **UVG37** Provide safe and welcoming places for the people of Seattle to play,
19 learn, contemplate, and build community. Provide healthy spaces for children
20 and their families to play; for more passive activities such as strolling, sitting,
21 viewing, picnicking, public gatherings, and enjoying the natural environment;
22 and for active uses such as community gardening, competitive sports, and
23 running.¹³⁹

24 **UVG39** Enhance the urban village strategy through the provision of:
25 1. Amenities in more densely populated areas
26 2. Recreational opportunities for daytime populations in urban centers

26 ¹³² **UV 7.5.**

27 ¹³³ **N12.**

28 ¹³⁴ **CF8.**

29 ¹³⁵ **CF10.**

30 ¹³⁶ But see N13 which reads in pertinent part “Consider recommendations from neighborhood plans in the
31 context of Seattle as a whole.” Ex. 53: Seattle’s Comprehensive Plan, Neighborhood Planning Element, A.
32 Introduction: neighborhood plan implementation policies at 8.5.

¹³⁷ Ex. 53: Seattle’s Comprehensive Plan, Capital Facilities Element, A. Capital Facilities Policies: strategic
capital investment policies at 5.3.

¹³⁸ Ex. 53: Seattle’s Comprehensive Plan, Urban Village Element, A. Urban Village Strategy: policies at 1.5

¹³⁹ Ex. 53: Seattle’s Comprehensive Plan, Urban Village Element, C. Open Space Network: goals at 1.25

1 3. Mitigation of the impacts of large scale development
2 4. Increased opportunities to walk regularly to open spaces by providing
3 them close by.

4 **UV2** Promote conditions that support healthy neighborhoods throughout the
5 city, including those conducive to helping mixed-use urban village
6 communities thrive, such as focused transportation demand management
7 strategies, vital business districts, a range of housing choices, a range of
8 park and open space facilities, and investment and reinvestment in
neighborhoods.¹⁴⁰

9 **UV10.5** Encourage the location of grocery stores, farmers markets, and
10 community food gardens to support access to healthful food for all areas
11 where people live.¹⁴¹

12 **UV51** Provide unstructured open play space for children in or near residential
13 neighborhoods.

14 In rebuttal, the City cites from the Land Use Element of its Comprehensive Plan, which
15 states that the Official Land Use Map is part of the regulatory structure that implements the
16 plan.¹⁴² The City argues that it is not required to change its capital facilities plans when
17 zoning is changed within the existing Map parameters. The Plan indicates most changes to
18 the location of specific zones will not require amendments to the Future Land Use Map.
19 Future Land Use Map amendments will generally only be considered for significant changes
20 to the intended function of a large area.¹⁴³

21 **LU2** Generally, Future Land Use Map¹⁴⁴ amendments will be required only
22 when significant changes to the intended function of a large area are
23 proposed. Changes in the Land Use Code zone designation of land that does
24 not significantly change the intended function of a large area generally will
25 not require an amendment to the Future Land Use Map.
26

27
28
29
30 ¹⁴⁰ Ex. 53: Seattle's Comprehensive Plan, Urban Village Element, A. Urban Village Strategy: policies at 1.5

31 ¹⁴¹ *Id.* at 1.7

32 ¹⁴² Ex. 53: Seattle's Comprehensive Plan, Land Use Element, A. Citywide land Use Policies: discussion at 2.4.

¹⁴³ *Id.*

¹⁴⁴ The Future Land Use Map is part of the Comprehensive Plan. Revision to it would constitute a comprehensive plan amendment.

1 **Board Discussion**

2 As in our previous discussion regarding Open Space Requirements of a Hub Urban
3 Village, the Petitioners' disappointment is understandable. As outlined *supra*, the Planning
4 Commission noted that:

5 . . . the success of Transit Communities requires three integral components:
6 investment in transit; appropriate zoning for focused, higher density
7 development; and necessary investment in the essential components for
8 livability.¹⁴⁵

9 Addressing the problem of funding of necessary facilities and infrastructure, "such as
10 parks, open space, libraries, sidewalks, plazas, pedestrian improvements and lighting," the
11 Planning Commission report emphasizes that "[w]ithout the essential components, urban life
12 becomes unattractive and inhospitable."¹⁴⁶ Key actions identified as necessary to maximize
13 the transit investment include implementing the neighborhood plan update by improving and
14 expanding connections to the Mount Baker Station and the planned Rainier Station; in
15 particular:

16 . . . improve pedestrian connections to Franklin High School, Somali
17 Community Services, Seattle Lighthouse for the Blind, and the residential Mt.
18 Baker neighborhood to the east. Improve connections to and usability of the
19 Cheasty Greenspace.¹⁴⁷
20

21 The Board sympathizes with Petitioners, who may well have a *firm and definite*
22 *conviction that inadequate planning decisions have been made* [requiring concurrent update
23 of the CIP]. Unfortunately that is not the Board's standard of review under GMA. As applied
24 to this case, RCW 36.70A.320(1) requires that the Board presume that the challenged
25 development regulations are valid unless the Board has a "*firm and definite conviction*" that
26 *the regulations are inconsistent with a comprehensive plan provision*. Here the rezone of the
27 North Rainier Hub Urban Village increased the intensity of allowed development within the
28 parameters of the Future Land Use Map without significantly changing the function of a
29
30

31 ¹⁴⁵ Ex. 64: *Seattle Transit Communities* (November 2010) at 32.

32 ¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 48.

1 large area. Absent action amounting to a comprehensive plan amendment, the plan does
2 not require concurrent updating of the CIP.¹⁴⁸

3 **The Board finds** Petitioners have not carried their burden to prove that the
4 Ordinance enacts regulations inconsistent with the comprehensive plan.
5

6 **Does the GMA impose a duty to concurrently update the CIP?**
7

8 **Positions of the Parties**

9 Petitioners read WAC 365-196-415 to impose an affirmative duty on the City to
10 reassess its Land Use Element to insure that the CIP is sufficient to meet the increased
11 need for open space that can eventually result from the rezone¹⁴⁹ by providing “a rational
12 mechanism for maintaining consistency with its concurrent capital facilities and open space
13 obligations” by, at a minimum, assessing the increased needs in the rezone area and
14 providing a means to fund the necessary infrastructure through the City’s projected revenue
15 or other local funding.¹⁵⁰ Instead, Petitioners lament that “the City’s capital facilities
16 documents reflect a complete failure to engage in the planning required to accommodate
17 the growth intended by the rezone.”¹⁵¹
18

19 The City objects that the Board lacks jurisdiction to review the Capital Facilities Plan
20 for GMA compliance and comprehensive plan consistency when the challenged action is
21 one adopting development regulations without amending the Comprehensive Plan itself.
22 The City argues the GMA capital facilities planning requirements apply only to the
23 comprehensive plan, and the Ordinance here amends development regulations.¹⁵²
24
25
26
27
28

29 ¹⁴⁸ The Board does not decide whether the City can use its Future Land Use Map to insulate it from any duty to
30 update its capital facilities plan, only that Petitioners fail to demonstrate the North Rainier Hub Urban Village
31 rezone triggers such a duty.

31 ¹⁴⁹ Petitioners’ Prehearing Brief at 16-17.

31 ¹⁵⁰ *Id.* at 18-20.

32 ¹⁵¹ *Id.* at 22; Ex. 74: Dept. of Parks and Recreation 2014-2015 Adopted Capital Improvement Program

¹⁵² City’s Prehearing Brief at 2, 17.

1 **Board Discussion**

2 To begin, the Board concurs with the City that a GMA challenge to the
3 Comprehensive Plan is not timely when, as here, the challenged action does not amend the
4 Plan. The question raised by the Petitioners is whether GMA requires that the City update
5 its CIP concurrent with the adoption of an Ordinance that increases development capacity.
6

7 The Board has previously determined

8 . . . that the GMA requires a capital facilities element with a financing plan
9 that ensures the provision of necessary urban services within the 20-year
10 planning horizon. However, a specific funding plan is only required for capital
11 facilities needed in the coming six years. The 6-year CFP must be consistent
with the comprehensive plan.¹⁵³

12 A recent decision from the Division II Court of Appeals further held:

13 In providing for annual amendment of the comprehensive plan, the statute
14 imposes no requirement that there be contemporaneous reevaluation of the
15 local government's capital facilities plan. . . ."¹⁵⁴
16

17 Considering this question in *Gig Harbor v. Pierce County*, the Board found that the
18 GMA expectation is that for public amenities such as parks, the GMA requirement focuses
19 on assuring the facilities will be available at the time new development is ready for
20 occupancy:

21 RCW 36.70A.020(1) by itself does not require the County to provide for
22 adequate parks. Instead, it requires the County to be guided by the planning
23 goal to concentrate future growth into urban areas that already have public
24 facilities or where they can someday most efficiently be developed to meet
25 the needs of the urban area population.

26 RCW 36.70A.020(12) states:

27 (12) Public facilities and services. Ensure that those public facilities and
28 services necessary to support development shall be adequate to serve the
29 development **at the time the development is available for occupancy and**
30

31 ¹⁵³ *KCRP VI v. Kitsap County, GMHB 06-3-0007*, Order Finding Compliance (November 5, 2007), at 8-9; see
also *WSDP I FDO* (April 4, 1995), at 49.

32 ¹⁵⁴ *Spokane County v. E. Wash. Growth Mgmt. Hearings Bd.*, 173 Wn. App. 310, 339, 293 P.3d 1248, (Div. II
2013).

1 **use** without decreasing current service levels below locally established
2 minimum standards.¹⁵⁵ **Emphasis added.**

3 In the present case, the parties agree that redevelopment is not imminent. It may be
4 well beyond six years before funding for supportive infrastructure and amenities for the hub
5 urban village will be needed. Unfortunately, without the City's commitment to investment in
6 livability, the area is just as likely to remain blighted and underdeveloped. As the Board
7 noted in a case concerning the Greenwood Urban Village:
8

9 [Sidewalks are a critical component of successful compact urban
10 development. However,] the Board cannot, with the facts and argument
11 presented in this case, discern a GMA duty that would oblige the City to
12 adopt "levels of service" for sidewalks in urban villages nor subject projects in
13 urban villages to a "concurrency" requirement for the installation of such
14 facilities.¹⁵⁶

15 Regarding Petitioners' reading of RCW 36.70A.070(3) and WAC 365-196-415, the
16 Board explains that these provisions relate to facilities needs in adopted comprehensive and
17 capital facilities plans. If probable funding for these needs falls short, the statute contains a
18 "trigger" for reevaluation and action by local government "to ensure that existing identified
19 needs are met."¹⁵⁷ The rub for Petitioners here is that the needs identified in the Framework
20 and other planning documents for the North Rainier Hub Urban Village have not been
21 adopted as commitments into the City's Comprehensive Plan and so do not fall under the
22 cited provisions. In other words, funding does not "fall short" because there are more needs
23 which the City will eventually be required to plan for. It could fall short because the City
24 allows more development than it has plans to serve with appropriate infrastructure, because
25 the City commits to more projects than it has funding for, or because revenue sources could
26 become insufficient.
27

28
29
30 ¹⁵⁵ *Gig Harbor v. Pierce County*, GMHB 95-3-0016c, FDO (May 20, 1996), at 13.

31 ¹⁵⁶ *Radabaugh v. City of Seattle*, GMHB 00-3-0002, FDO (July 26, 2000), at 13-14. The Board commented:
32 "Clearly the City has taken some pains to place no policy duty upon itself to do anything other than 'strive' to
 provide pedestrian infrastructure in urban villages."

¹⁵⁷ *McVittie v. Snohomish County*, GMHB 99-3-0016c, FDO (February 9, 2000), at 26.

1 Nevertheless, based on prior case law and, in particular, the appeals court ruling that
2 the statute imposes no requirement for contemporaneous reevaluation of the capital
3 facilities plan as annual comprehensive changes are enacted, the Board concludes there is
4 no GMA duty to revise the CIP concurrently to include parks or other amenities that might
5 eventually be needed for the North Rainier Hub Urban Village rezone.

6
7 **The Board finds** Petitioners have not carried their burden to show that the City's
8 adoption of the Ordinance failed to comply with RCW 36.70A.070 or WAC 365-196-415.

9 **Issues 4, 5, 7, 8, and 9 are dismissed.**

10
11 **E. Coordination with other entities (Issue 10)**

12 *Petitioners' General Issue 5. The Ordinance is inconsistent with Seattle's Comprehensive*
13 *Plan because the City failed to coordinate with other entities, including Franklin High School*
14 *officials, on opportunities needed to accommodate growth near the rezone area (Issue 10).*

15 Issue 10: Is the Ordinance inconsistent with **CF14** and **CF15** of the Comprehensive Plan
16 because the City failed to coordinate with other entities, including Franklin High School
17 officials, on the opportunities needed to properly maintain, site, renovate and/or expand
18 school facilities best equipped to accommodate growth near the rezone area?

19
20 **CF14** Work with other public and non-profit entities to include urban village
21 location as a major criterion for selecting sites for new or expanded
22 community-based facilities or public amenities.¹⁵⁸

23 **CF15** Work with the School District to encourage siting, renovation, and
24 expansion of school facilities in areas that are best equipped to accommodate
25 growth.¹⁵⁹

26 **Positions of the Parties**

27 Petitioners assert that the City violated its comprehensive plan policies because the
28 Ordinance rezoned property near and adjacent to Franklin High School without any
29 evidence of coordination or work on the siting of facilities and "other amenities needed to
30

31
32 ¹⁵⁸ Ex. 53: Seattle's Comprehensive Plan, Capital Facilities Element, A. Capital Facilities Policies: relations
with other public entities policies at 5.4.

¹⁵⁹ *Id.*

1 accommodate . . . new growth. . . .” Petitioners allude to concerns about pedestrian
2 amenities¹⁶⁰ and open space.¹⁶¹

3 In their reply brief, Petitioners articulate their frustration with allowing the City to
4 evade review of its actions by construing mandates to “strive,” consider,” “direct efforts,”
5 “coordinate,” “encourage,” “work with,” and “provide” as meaningless and unenforceable
6 exhortation.¹⁶²

7
8 The City responds that these comprehensive plan policies relate to the process of
9 selecting and budgeting capital facilities, which the City again asserts is not required to be
10 done contemporaneously with the rezone.

11 12 **Board Discussion**

13 Once again the Board has great sympathy for the Petitioners’ frustration with the
14 City’s narrow view of the applicability of its comprehensive plan provisions. However, it is
15 equally unreasonable to assert that **no** comprehensive plan policy can provide general
16 guidance. Even if the cited policies clearly required contemporaneous action, and **CF** 14
17 and **CF** 15 do not, Petitioners could still not prevail without showing how the City failed to
18 work with the school district or “other entities.” For example, in what way did the City fail to
19 avail itself of the opportunity to “work with” the Seattle School District? Petitioners may not
20 flip the burden of proof to require the City to prove that it did “work with” other entities.

21
22 **The Board finds** Petitioners have failed to carry their burden to prove that the
23 challenged ordinance fails to comply with RCW 36.70A.020, RCW 36.70A.040, RCW
24 36.70A.120, or RCW 36.70A.130(1)(d).

25 **Issue 10 is dismissed.**
26
27
28
29
30

31
32 ¹⁶⁰ Petitioners Prehearing Brief at 23.

¹⁶¹ Petitioners Reply at 11.

¹⁶² *Id.* at 10 (citing City’s Prehearing Brief at 18).

1 **VI. ORDER**

2 Based upon review of the Petition for Review, the briefs and exhibits submitted by the
3 parties, the GMA, prior Board orders and case law, having considered the arguments of the
4 parties, and having deliberated on the matter, the Board Orders:

- 5 • The Petition for Review in *Talis Abolins and Marla Steinhoff v. City of Seattle* is
6 dismissed. Case No. 14-3-0009 is closed.
7

8 SO ORDERED this 1st day of April, 2015.
9

10
11 _____
12 Cheryl Pflug, Board Member

13
14 _____
15 Margaret Pageler, Board Member

16
17 _____
18 Nina Carter, Board Member
19

20 **Note: This is a final decision and order of the Growth Management Hearings Board**
21 **issued pursuant to RCW 36.70A.300.¹⁶³**
22

23
24
25
26
27
28
29 _____
30 ¹⁶³ Should you choose to do so, a motion for reconsideration must be filed with the Board and served on all
31 parties within ten days of mailing of the final order. WAC 242-03-830(1), WAC 242-03-840.
32 A party aggrieved by a final decision of the Board may appeal the decision to Superior Court within thirty days
as provided in RCW 34.05.514 or 36.01.050. See RCW 36.70A.300(5) and WAC 242-03-970. It is incumbent
upon the parties to review all applicable statutes and rules. The staff of the Growth Management Hearings
Board is not authorized to provide legal advice.

1 **APPENDIX A: ISSUE STATEMENTS as revised by Order on Motions (Dec. 10, 2014)**

2 Did the City violate RCW 36.70A.020(1), (9), (10), (12) and (13) (Planning Goals to
3 guide development and adoption of development regulations); RCW 36.70A.040(3) (city
4 development regulations must implement comprehensive plans); RCW 36.70A.070
5 (requiring land use map consistency with Comprehensive Plan); RCW 36.70A.120 (each
6 city shall perform activities and make capital budget decisions in conformity with its
7 comprehensive plan); RCW 36.70A.130(1)(d) (development regulation amendments shall
8 be consistent with and implement the comprehensive plan); and RCW 36.70A.320(3) (city
9 actions must not be clearly erroneous in light of the GMA goals and requirements), as
10 detailed more specifically below?
11

12 1. Is the Ordinance inconsistent with **NR-P33** of the City's Comprehensive Plan
13 because it does not preserve, protect or provide opportunities for the design of parks and
14 open spaces and programming to accommodate users of diverse ages, interests and
15 cultures within the Town Center rezone area?
16

17 2. Dismissed.¹⁶⁴

18 3. Is the Ordinance inconsistent with **LU48** and **LU73** of the City's Comprehensive
19 Plan because the City failed to balance housing needs with the surrounding neighborhood
20 character; failed to properly identify, preserve and enhance important open spaces, green
21 spaces and views in or near the Town Center rezone area?¹⁶⁵
22

23 4. Is the Ordinance and Capital Facilities Plan inconsistent with **UV46**, **UV 49**, **UV 51**
24 and **UV 53** of the Comprehensive Plan, RCW 36.70A.070(3) and (8) and WAC 365-196-415
25 because it neither analyzes nor strives to accomplish the open space standards identified in
26 the Neighborhood Plan and Urban Village Appendix B for the amount, types, and
27 distribution of open space necessary to serve the new Town Center residents, thereby
28 defeating the express goals of **UV3**, **UVG12**, **UVG 15**, **UVG 37**, and **UVG 39**?
29
30

31 ¹⁶⁴ Order on Motions (December 10, 2014) at 6-7.

32 ¹⁶⁵ *Id.* at 7-8 (dismissing allegations that the Ordinance violated **BNR-P35**, **LU 212**, **LU 215**, **LU 216**, and
allegations pertaining to protecting critical areas).

1 5. Is the Ordinance inconsistent with **UV 2, UV 7.5 and UV 10.5** of the
2 Comprehensive Plan because the City failed to consider, preserve or promote conditions
3 necessary to support healthy Town Centers, including those conducive to helping mixed-
4 use urban village communities thrive, such as a minimum range of park and open space
5 facilities, and community food gardens to support access to healthful food for the dense
6 areas within the Town Center?
7

8 6. Is the Ordinance inconsistent with **N6** of the Comprehensive Plan because it was
9 enacted without proper consideration or preservation of the strong historical, cultural, and
10 natural geographic interests reflected in the Olmsted Boulevard plans and Cheasty Green
11 Space?
12

13 7. Is the Ordinance and Capital Improvement Plan inconsistent with **N10, N11, N 12,**
14 **N 13 and N 14** of the Comprehensive Plan because the City failed to: (1) establish a firm
15 and clear relationship between the City's budgeting processes and the adopted
16 Neighborhood Plan; (2) demonstrate how the urban village strategy reflected in the
17 Neighborhood Plan and related project documents shall be effectively carried out under the
18 rezone Ordinance; and (3) properly consider and utilize the adopted North Rainier
19 Neighborhood Plan goals, policies and work plan matrices to balance competing goals?
20

21 8. Is the Ordinance (including its Fiscal Note) inconsistent with **CFG4, CFG5, CF1**
22 **CF2, CF7 and CF8**, of the Comprehensive Plan and the Capital Improvement Plan where
23 the City failed to provide for the siting and design of open space and other required green
24 features (including community gardens) in a manner that would allow them to be considered
25 assets to the Town Center community; and they fail to consider and encourage protection of
26 City-owned historic facilities, including the Olmsted Boulevards, Cheasty Green Space, and
27 Franklin High School, in light of the values and social equities reflected in the Neighborhood
28 Plan?
29

30 9. Is the Ordinance (including its Fiscal Note, and the City's related financial
31 budgeting processes) and the Capital Investment Plan inconsistent with **CF1, CF 2, CF 7,**
32

1 **CF 8, CF 9, CF 10, CF 11 and CF -F¹⁶⁶** of the Comprehensive Plan where the City failed to
2 properly consider, plan, preserve and provide opportunities for necessary open space,
3 parks and playgrounds needed to bridge the recognized gaps in those facilities, and to
4 create an incentive for public and private investment in and near the Town Center area?

5 10. Is the Ordinance inconsistent with **CF14** and **CF15** of the Comprehensive Plan
6 because the City failed to coordinate with other entities, including Franklin High School
7 officials, on the opportunities needed to properly maintain, site, renovate and/or expand
8 school facilities best equipped to accommodate growth near the rezone area?
9

10 11. Is the Ordinance inconsistent with **NR-G13** and **NR-G14** of the City's
11 Comprehensive Plan because it fails to consider, protect or provide opportunities for
12 reclamation and development of Cheasty Boulevard and Greenbelt, and the 1909 Olmsted
13 Parks and Boulevards Plan?
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32 ¹⁶⁶ The Board finds no policy "**CF-F**" in the City's Comprehensive Plan. Under the Capital Facilities Element
(**CF**) there is a section "F. Consistency & Coordination" which contains a discussion to which Petitioner
appears to refer. There are no policies set forth in this portion of the Comprehensive Plan.

APPENDIX B
Comprehensive Plan policies and goals

Issue 1

NR-P33 Design parks and open spaces and programming to accommodate users of diverse ages, interests and cultures.¹⁶⁷

Issue 3

LU48 Seek to preserve views through:

- land use regulations that address view impacts with height, bulk, scale, view corridor and design review provisions;
- zoning policy that considers the effect of zone designations on views, with special emphasis on protection of views related to shoreline areas; and
- application of adopted environmental policy to protect public views, including views of mountains, major bodies of water, designated landmarks and the Downtown skyline, in review of development projects.¹⁶⁸

LU73 Balance the objective to increase opportunities for new housing development to ensure adequate housing for Seattle's residents with the equally important objective of ensuring that new development is compatible with neighborhood character.¹⁶⁹

Issue 4

UV46 Strive to accomplish goals in Urban Village Appendix B for the amount, types, and distribution of open space.

UV49 Consider open space provisions identified in adopted neighborhood plans, including specific open space sites and features, in guiding the expansion of the open space network.

UV51 Provide unstructured open play space for children in or near residential neighborhoods.

UV53 Direct efforts to expand the open space network according to the following considerations:

1. Locations for new facilities:

¹⁶⁷ Ex. 53: Seattle Comprehensive Plan, B-21 North Rainier Neighborhood Plan, Open Space Policies at 8.132.

¹⁶⁸ Ex. 53: Seattle Comprehensive Plan, Land Use Element, A-2. Uses: views policy at 2.11.

¹⁶⁹ Ex. 53: Seattle Comprehensive Plan, Land Use Element, B-2. Multifamily Residential Areas: policies at 2.16.

- a. Urban centers and villages targeted for largest share of residential growth; especially those existing high density residential areas presently not served according to the population-based or distribution goals for urban village open space;
 - b. Other urban village locations where an adopted subarea plan or recognized neighborhood plan includes open space recommendations consistent with these policies; and
 - c. Specific locations enumerated in the Parks functional plan outside urban centers or villages.
2. Types of open space acquisitions and facility development:
- a. Village open space sites, urban center indoor recreation facilities, village commons sites, and community gardens;
 - b. Critical open space linkages, connectors, and corridors that are highly accessible for active use within or directly serving urban villages, high density and/or high pedestrian, bicycle, or transit use areas;
 - c. Open space linkages, connectors, and corridors that are highly accessible for active use serving other high pedestrian, bicycle, or transit use areas; and
 - d. Other types of open space within or adjacent to urban villages that is accessible from adjacent urban villages.¹⁷⁰

UV1 Promote the growth of urban villages as compact mixed-use neighborhoods in order to support walking and transit use, and to provide services and employment close to residences.¹⁷¹

UV3 Consider the following characteristics appropriate to all urban village categories except Manufacturing and Industrial Centers:

1. Clearly defined geographic boundaries that reflect existing development patterns, functional characteristics of the area, and recognized neighborhood boundaries.
2. Zoning sufficient to accommodate the residential and employment growth targets established for that village.
3. The ability to accommodate a range of employment or commercial activity compatible with the overall function, character, and intensity of development specified for the village.
4. Zoning that provides locations for commercial services convenient to residents and workers and, depending on the village designation, serving a citywide and regional clientele.
5. Zoning sufficient to allow a diversity of housing to accommodate a broad

¹⁷⁰ Ex. 53: Seattle Comprehensive Plan, Urban Village Element, C. Open Space Network Policies at 1.26.

¹⁷¹ Ex. 53: Seattle Comprehensive Plan, Urban Village Element, A. Urban Village Strategy Policies at 1.5.

range of households.

6. Zoning regulations that restrict those public facilities that are incompatible with the type of environment intended in centers and villages.

7. Most future households accommodated in multifamily housing.

8. Additional opportunities for housing in existing single-family areas, to the extent provided through neighborhood planning, and within other constraints consistent with this Plan.

9. Public facilities and human services that reflect the role of each village category as the focus of housing and employment and as the service center for surrounding areas.

10. Parks, open spaces, street designs, and recreational facilities that enhance environmental quality, foster public health and attract residential and commercial development.

11. A place, amenity, or activity that serves as a community focus.

12. Neighborhood design guidelines for use in the City's design review process.¹⁷²

UVG12 Promote physical environments of the highest quality, which emphasize the special identity of each of the city's neighborhoods, particularly within urban centers and villages.¹⁷³

UVG15 Provide parks and open space that are accessible to urban villages to enhance the livability of urban villages, to help shape the overall development pattern, and to enrich the character of each village.¹⁷⁴

UVG37 Provide safe and welcoming places for the people of Seattle to play, learn, contemplate, and build community. Provide healthy spaces for children and their families to play; for more passive activities such as strolling, sitting, viewing, picnicking, public gatherings, and enjoying the natural environment; and for active uses such as community gardening, competitive sports, and running.¹⁷⁵

UVG39 Enhance the urban village strategy through the provision of:

1. Amenities in more densely populated areas
2. Recreational opportunities for daytime populations in urban centers
3. Mitigation of the impacts of large scale development
4. Increased opportunities to walk regularly to open spaces by providing them close by

¹⁷² *Id.* at 1.5-1.6.

¹⁷³ *Id.* at 1.5.

¹⁷⁴ *Id.*

¹⁷⁵ Ex. 53: Seattle's Comprehensive Plan, Urban Village Element, C. Open Space Network: goals at 1.25.

5. Connections linking urban centers and villages, through a system of parks, boulevards, community gardens, urban trails, and natural areas
6. A network of connections to the regional open space system
7. Protected environmentally critical areas
8. Enhanced tree canopy and understory throughout the city¹⁷⁶

Issue 5

UV2 Promote conditions that support healthy neighborhoods throughout the city, including those conducive to helping mixed-use urban village communities thrive, such as focused transportation demand management strategies, vital business districts, a range of housing choices, a range of park and open space facilities, and investment and reinvestment in neighborhoods.¹⁷⁷

UV7.5 Coordinate public and private activities to address transportation, utilities, open space and other public services to accommodate the new growth associated with subarea rezones (e.g., in transit station areas) that result in significant increases in density.¹⁷⁸

UV10.5 Encourage the location of grocery stores, farmers markets, and community food gardens to support access to healthful food for all areas where people live.¹⁷⁹

Issue 6

N6 Require that the following be taken into consideration in establishing future planning area boundaries:

1. Areas defined by a strong historical, cultural, geographic, or business relationships.
2. Natural or built barriers (e.g., I-5, major topography change).
3. Manageable size of area, manageable complexity of issues for resources available.
4. Generally agreed upon neighborhood boundaries.
5. The Urban Village Strategy.
6. The appropriateness of the area for the issues being addressed in the plan.¹⁸⁰

¹⁷⁶ *Id.* at 1.25-1.26

¹⁷⁷ Ex. 53: Seattle's Comprehensive Plan, Urban Village Element, A. Urban Village Strategy: policies at 1.5

¹⁷⁸ *Id.* at 1.7

¹⁷⁹ *Id.* at 1.7

¹⁸⁰ Ex. 53: Seattle's Comprehensive Plan, Neighborhood Planning Element, A. Introduction: policies at 8.4.

Issue 7

N10 Establish a firm and clear relationship between the City's budgeting processes and adopted neighborhood plans and, using the biennial budget, demonstrate how the urban village strategy is being carried out.¹⁸¹

N11 Assess as part of the City's budget process, neighborhood plan implementation needs and resources, taking into consideration the results of implementation activities for each area and public input into the budget process.¹⁸²

N12 Use adopted neighborhood plan goals and policies and the City's neighborhood plan work plan matrices to help balance between competing goals in City decision making and the allocation of budget resources.¹⁸³

N13 Consider recommendations from neighborhood plans in the context of Seattle as a whole. Incorporate such requests into City prioritization processes, as appropriate, for capital expenditures and other decision making recognizing the City's legal, administrative and fiscal constraints.¹⁸⁴

N14 When allocating resources to implement neighborhood plans, at a minimum consider the following factors:

- Where the greatest degree of change is occurring;
- Where growth has exceeded current infrastructure capacities;
- Where there is a deficit in meeting service levels called for by the Comprehensive Plan or the expectation of other City policies or agency plans;
- Where there is an urban center or urban village designation;
- Where the neighborhood plan goals and policies or work plan matrix have specific prioritized plan recommendations endorsed by the City;
- Where resources would help spur growth in urban centers or urban villages;
- Where there are opportunities to leverage other resources, or partnerships;
- Where the resource would address priorities of more than one neighborhood;

and

- Where the impact of a single, large activity generator will have detrimental effects on the infrastructure capacities of the neighborhood.¹⁸⁵

¹⁸¹ Ex. 53: Seattle's Comprehensive Plan, Neighborhood Planning Element, A. Introduction: neighborhood plan implementation policies at 8.5.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

1 Issue 8

2 **CFG4** Site and design capital facilities so that they will be considered assets to
3 the communities in which they are located.¹⁸⁶

4 **CFG5** Provide capital facilities that will keep Seattle attractive to families with
5 children.¹⁸⁷

6
7 **CF1** Plan capital investments strategically, in part by striving to give priority to
8 areas experiencing or expecting the highest levels of residential and
9 employment growth when making discretionary investments for new facilities.
10 The City will use fiscal notes and policy analysis to assist in making informed
11 capital investment choices to achieve the City's long-term goals.¹⁸⁸

12 **CF2** Assess policy and fiscal implications of potential major new and
13 expanded capital facilities, as part of the City's process for making capital
14 investment choices. The assessment should apply standard criteria, including
15 the consideration of issues such as a capital project's consistency with the
16 Comprehensive Plan and neighborhood plans, and its effects on Seattle's
17 quality of life, the environment, social equity, and economic opportunity.¹⁸⁹

18 **CF7** The City will consider capital improvements identified in neighborhood
19 plans, in light of other facility commitments and the availability of funding and
20 will consider voter-approved funding sources.¹⁹⁰

21 **CF8** Explore tools that encourage sufficient capital facilities and amenities to
22 meet baseline goals for neighborhoods and to address needs resulting from
23 growth.¹⁹¹

24 Issue 9

25 **CF9** Encourage the location of new community based capital facilities, such as
26 schools, libraries, neighborhood service centers, parks and playgrounds,
27 community centers, clinics and human services facilities, in urban village
28 areas. The City will consider providing capital facilities or amenities in urban

29 ¹⁸⁶ Ex. 53: Seattle's Comprehensive Plan, Capital Facilities Element, A. Capital Facilities Policies: goals at 5.3.

30 ¹⁸⁷ *Id.*

31 ¹⁸⁸ Ex. 53: Seattle's Comprehensive Plan, Capital Facilities Element, A. Capital Facilities Policies: strategic
capital investment policies at 5.3.

32 ¹⁸⁹ *Id.*

¹⁹⁰ *Id.* at 5.4.

¹⁹¹ *Id.*

villages as an incentive to attract both public and private investments to an area.¹⁹²

CF10 Seek to locate capital facilities where they are accessible to a majority of their expected users by walking, bicycling, car-pooling, and/or public transit.¹⁹³

CF11 Consider the recommendations from neighborhood plans in siting new or expanded facilities. The needs of facility users will also be considered in making these decisions.¹⁹⁴

CF-F Consistency & Coordination: discussion: As part of the City's CIP process, the City considers whether probable funding will be sufficient to meet the currently identified needs for new or expanded city capital facilities to accommodate planned growth. Should anticipated funding not materialize, or should new needs be identified for which no funding is determined to be probable, the City will reassess the land use element of this Plan to ensure that it is coordinated, and consistent, with this element, and in particular with the six-year finance plan. A review for coordination and consistency between this Element and the Land Use Element will be part of the City's annual budget review and Comprehensive Plan amendment processes.¹⁹⁵

Issue 10

CF14 Work with other public and non-profit entities to include urban village location as a major criterion for selecting sites for new or expanded community-based facilities or public amenities.¹⁹⁶

CF15 Work with the School District to encourage siting, renovation, and expansion of school facilities in areas that are best equipped to accommodate growth.¹⁹⁷

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ There is no policy **CF-F**. Petitioners appear to be referring to s discussion section; See Ex. 53: Seattle's Comprehensive Plan, Capital Facilities Element, F. Consistency & Coordination at 5.8.

¹⁹⁶ Ex. 53: Seattle's Comprehensive Plan, Capital Facilities Element, A. Capital Facilities Policies: relations with other public entities policies at 5.4.

¹⁹⁷ *Id.*

1 Issue 11

2 **Applicable Law**

3 **NR-G13** Cheasty Boulevard and Greenbelt has been reclaimed and
4 developed in a manner consistent with the 1909 Olmsted Parks and
5 Boulevards Plan.¹⁹⁸

6 **NR-G14** A “ring of green” surrounding the urban village with strong
7 connections to the greenbelts, boulevards and parks, augmented with a
8 hierarchy of open spaces.¹⁹⁹

31 ¹⁹⁸ Ex. 53: Seattle Comprehensive Plan, Neighborhood Planning Element, Neighborhood Plans, B-21 North
32 Rainier: open space goal at 8.131
¹⁹⁹ *Id.*